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GCMA Report #R-370
Date: June 16, 2003

12-HOUR RULE VIOLATIONS: THE VERRET CASE

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THE ROLE OF GCMA

GCMA is a family-oriented association that represents the interests of ñlower-levelò mariners who work on tugs, towboats, offshore supply vessels, and small passenger vessels in the 26-state area covered by the Eighth Coast Guard District. Since this case involves members of our association and an egregious violation of Federal work-hour statutes (i.e., the 12-hour rule), we need to point out that this is one of the major issues we presented to Congress in February 2003. GCMA followed every step of this case as it unfolded. We prepared this report to inform our mariners.

THE GCMA "YELLOW BOOK"

In June 2000, the staff of the Gulf Coast Mariners Association (GCMA) prepared a book titled Mariners Speak Out on Violations of the 12-Hour Workday that we call our ñYellow Bookò. Our ñYellow Bookò reported for the first time that a large number of violations of existing work-hour statutes occur in both the offshore oil and the towing sectors of the maritime industry. These are sectors where our ñlower-levelò licensed and unlicensed mariners serve on commercial vessels of less than 1,600 gross register tons. Our mariners, for the most part, are not represented by established maritime labor unions with the power to bargain for a contract with their employers. Therefore, they must accept whatever is offered to them. They serve at the pleasure of their employers and may be terminated for any reason whatsoever and at any time.

GCMA documented our ñYellow Bookò with written complaints by 57 ñlower-levelò mariners, many in the marinersô own handwriting. A copy of this book was presented to the Eighth Coast Guard District Commander, RADM Paul J. Pluta who ñstonewalledò it.

Previously, in a letter to Congressman ñBillyò Tauzin,[1] Admiral Pluta stated in part: ñRecently my staff conducted an informal survey of a cross section of Eighth Coast Guard District Marine Safety Offices to get a feel for the volume of 12-hour rule complaints we receive. This survey indicated that the Eighth District Marine Safety Offices have received very few complaints involving mariners being forced to work more than 12 hours. However, when we receive such a complaint, it is aggressively investigated and appropriate action takené ò Consequently, within the month, RADM Pluta had in his hands the GCMA ñYellow Bookò that refuted parts of his letter to Congressman Tauzin. There was no retraction. *[(1)Letter dated May 11, 2000, staff symbol (moc-3).]*

Based our experience, licensed mariners seldom report work-hour violations because they fear they will lose their jobs if they complain about them. Through a loophole in the Fair Credit Reporting Act and as a result of the close-knit nature of the sectors of the maritime industry that employ ñlower-levelò mariners, being fired by one employer, whether justified or not, can lead to a mariner being ñblacklistedò throughout the entire industry. We point out that this is an unwarranted waste of experienced manpower that is in increasingly short supply and has a devastating effect on mariner morale.

Louisiana is a state where mariners who are not protected by a union contract are employed ñat willò and may be terminated by their employer for any reason at any time. The District Commander, Admiral Pluta,

chose the easy route of accepting without question what his subordinates told him and then informed Congressman Billy Tauzin that complaints of this type were probably without merit but would be investigated if filed. Sadly, GCMA finds little evidence of the Coast Guardôs willingness to either investigate or enforce the work-hour statute throughout the past three years! Even after he was promoted to the post of Chief of Marine Safety, Security, and Environmental Protection at Coast Guard Headquarters, Admiral Pluta never wavered an inch in stonewalling our mariners attempts to have the Coast Guard enforce the work-hour regulations that were already on the books.

To make matters worse, large numbers of unlicensed mariners have no federal work-hour protection whatsoever and, consequently, are often called upon to work an unlimited number of hours. The American Waterways Operators (AWO), an industry trade association ñrecommendsò that its members not exceed a 15-hour day for unlicensed personnel. We reported to both the Coast Guard and Congress that these work-hours are excessive and can lead to a 99 to 105-hour workweek. The Coast Guard chose to ignore the problem[(1)] and, when asked, did not see fit to ask Congress for legislation to correct the situation and protect our mariners from exploitation. *[(1)Refer to Docket #USCG-2002-12579]*

TRAINING TOWING VESSEL OFFICERS BECAME A NATIONAL ISSUE IN 1993

One of the principal causes of Captain Verretôs stroke was that he was expected to train a newly licensed mate how to move anchors for the pipelaying barge MIDNIGHT BRAVE while he was still expected to stand his own watch and be responsible for all aspects of managing his towing vessel. The law that governs work-hours on towing vessels states: ñSubject to exceptions, 46 U.S.C. 8104(h) permits a licensed master or mate (pilot) operating a towing vesselé to work not more than 12 hours in a consecutive 24-hour period except in an emergency.[(1)] The Coast Guard interprets this, in conjunction with other provisions of the law, to permit licensed masters or mates (pilots) serving as operators of towing vessels that are not subject to the provisions of the Officersô Competency Certificates Convention, 1936,[(2)] to be divided into two watches regardless of the length of the voyageò. *[(1)46 CFR 15.705(d). (2)Towing vessels in coastwise service of less than 200 gross register tons, such as the M/V MOHAWK EAGLE, are not subject to this convention.]*

The practical effect of this work-hour statute and regulation requires the second in command to be a competent boat handler fully able to handle any situation that may arise while they are on watch. Otherwise, the two-watch system will not work as intended and all sorts of excuses for extending work-hours can be rationalized.

The master is fully responsible for setting the vesselôs watch schedule. If the master, in sole command of the vessel, finds that he must take the time to assist or supervise a mate who is either inexperienced or not competent to safely perform all or part of his job, he automatically violates the ñ12-Hour Ruleò if he must remain on duty beyond his established watch unless there is a true emergency that could not have been foreseen and planned for. Coast Guard Policy Letter G-MOC#4-00, Revision 1 goes into even more detail on the responsibilities of the master, the company, and the Coast Guard. Nevertheless, GCMA found it necessary to appeal certain parts of this policy letter.

In the testimony given by the company operations manager and personnel manager, the job of anchor handling is a specialty that requires an experienced deck crew and pilothouse personnel. These company officials stated that they would never assign an unqualified mate who was not fully capable of maneuvering the vessel or handling anchors to work alone with a qualified masterï yet they did so in this case. Captain Verret was a fully qualified master with 46 years experience on the water with most of that time spent serving on uninspected towing vessels in United States and foreign waters. These managers claimed that Captain Verret was the person responsible for reporting on the qualifications or shortcomings of his mate since he worked with him on a daily basis. Yet, the ñat willò status of his employment led him to avoid ñrocking the boatò. He did ask for an experienced mate but was left to settle for a man he could work with but was NOT fully trained in the specialty job of ñanchor handling.ò

Testimony revealed that the company, although it operated more than 100 vessels, had no established training routine for advancing from mate to master, even on vessels where the difficult and dangerous job of anchor handling was a specialty. Apparently, after an experienced deckhand earned his Coast Guard mateôs license, he was free to continue to serve as a deckhand and spend his own off-duty time observing the licensed officers perform their duties. However, anchor handling is not only difficult but hard work as well. This discouraged many company employees from seeking anchor-handling work until, following the accident, incentive pay was offered for this work. While the company claimed that Captain Verretôs mate was fully qualified in all respects to handle anchors, neither the mate (in his own testimony under oath) nor Captain Verret agreed with that assessment. In fact, Captain Verret complained about having to train a new mate as well as run the boat because he knew he would have to spend well in excess of 12 hours at work each day to stand his own watch and watch over his new mate. In addition his brother-in-law, Frank Billiot, who also worked for the same company at the time, was a fully qualified and

experienced anchor handler and specifically asked to be assigned to work with Captain Verret on this jobï but was sent on a different boat to the east coast.

The manner of training pilothouse personnel became a national issue following the AMTRAK disaster at Bayou Canot, AL, in September 1993. Following the accident caused by a barge pushed by the towing vessel MAUVILLA that struck a railway bridge killing 47 train passengers and crewmembers, new licensing regulations were adopted and went into effect on May 21, 2001. The purpose of these regulations is to provide adequate training for persons who advance from being deckhands to towing vessel officers and serve in the pilothouse by means of a meaningful apprenticeship program. While these regulations were not in effect at the time of Captain Verretôs stroke and will not be fully in effect in the industry before May 21, 2006, this accident is an excellent example of why such regulations are necessary in the towing industry.

After May 21, 2006, a deckhand with a total of 18 months service on deck on a vessel, of which 12 of those months must be on a towing vessel, will be given his first formal opportunity to advance into the pilothouse for training purposes only. To be accepted for pilothouse training, the deckhand must demonstrate his interest in advancement by first passing a written Coast Guard examination. Essentially, this examination is the same exam the Coast Guard has given since 1975 although, through the years, many of the questions became more difficult in light of new regulations. In any event, the exam involves the same subjects that all existing masters and mates are tested on. Some training schools now offer brief Coast Guard approved courses to pass the exam to obtain a new apprentice mate (steersman) license while home study remains an approved alternative.

The new apprentice mate license does NOT authorize its holder to operate a towing vessel alone. There must always be a licensed towing vessel officer, either a master or a mate, in the pilothouse and in charge of the vessel. To help ensure that meaningful training takes place, an apprentice mate must maintain a detailed Towing Officer Assessment Record (TOAR).[1] The purpose of this TOAR is to ensure that the apprentice mate is capable of handling the vessel and performing any tasks that vessel is assigned to undertake. One such task should be anchor handling that is widely practiced in pipelaying and other practical areas of marine construction. *[(1)Refer to GCMA Report #R-287.]*

At the end of his formal apprenticeship, and after making formal application to the Coast Guard where he must turn in his completed TOAR and provide sea service letters documenting 360 actual days of sea service as an apprentice, he will receive a license as mate (pilot) of towing vessels without further formal schooling or examination. However, if the Coast Guard catches him operating a vessel without a supervising master or mate in the pilothouse with him, he can lose his license as can the master or mate that is supposed to be on watch at the time. Yet, our experience in dealing with the Coast Guard indicates that strict enforcement will be very unlikely.

The new mate (pilot) license will be endorsed for the route or routes the apprentice mate has served on with three months of service required for each route. These routes are described in these broad terms: oceans; near-coastal; Great Lakes and inland; and western rivers. *[Refer to 46 CFR 10.466.]*

The purpose of these new regulations is to allow a year devoted to formal, hands-on training in the pilothouse for a deckhand with at least one-year experience on deck. It will also mean that a company must pay for an ñextra manò to train in the pilothouse if they expect to generate any new trained personnel rather than steal them from their competitors. Leading companies have already started apprenticeship programs while the usual crowd of ñsubstandard operatorsò apparently plan to ñpencil-whipò the new regulations. Unfortunately, if the past is any guide to the future, the Coast Guard is likely to bend to the wishes of industry to relax enforcement and leave mariners to hang in the well-oiled administrative justice system whenever something goes wrong. The administrative justice system is not ñmariner-friendlyò.[1] *[(1)Refer to GCMA Report #R-323.]*

AN NTSB "MOST WANTED" SAFETY RECOMMENDATION: SCIENTIFICALLY-BASED HOURS-OF-WORK REGULATIONS

Work-hour violations are closely tied to fatigue and to a number of accidents in the entire transportation industryï including trucking, railroad, airline, and maritime sectors. This correlates closely with one of the National Transportation Safety Boardôs ñMost Wantedò safety reforms ñé to help eliminate fatigue as a causal factor in transportation accidents by studying the relationship between fatigue and accidents within the transportation industry; and updating each industryôs hours-of-service regulations.ò Since 1989, the National Transportation Safety Board (NTSB) has called for ñscientifically-based hours-of-workò as one of their ten most wanted transportation safety improvements.[1] Fortunately for mariners, recent ñcrew enduranceò studies by the Coast Guard reiterate that human beings need between seven and eight hours of uninterrupted sleep on a daily basis. This does not appear to mesh well with the six hours on/six hours off duty schedule and the 84-hour workweek the existing 12-hour rule calls for. But, in the cases we cite in the ñYellow Bookò and in this case in particular, the 12-hour rule is most noteworthy by the fact that it is violated so often and is so rarely

enforced and never investigated by the Coast Guard. In fact, the lack of an existing standardized logbook requirement makes the work-hour regulations virtually impossible to enforce.[2] This will be a long battle, and GCMA and its members are united in this for the long haul ahead. We are determined that the sacrifices of Captain Collins Verret and his family will not have been made in vain. *[(1)Now known as NTSB Recommendation M-99-1. (2)Refer to Docket #USCG-2002-12581.]*

THE VERRET FAMILY TRAGEDY: AN "INEVITABLE" FATIGUE INJURY

On December 4, 2000, Rita Billiot, an active GCMA member, called to tell us that her brother-in-law Antoine Collins Verret, master of the anchor-handling tug M/V MOHAWK EAGLE owned at the time by Double Eagle Marine, was found unconscious in his cabin after suffering a stroke on the vessel while it was returning to an anchor-handling job for the pipelaying barge MIDNIGHT BRAVE 60 miles offshore in the Gulf of Mexico. She reported that Collins was evacuated by helicopter to Lake Charles Memorial Hospital. Rita reported that the company called her sister Catherine, Collinsô wife, about 6:00 a.m., and told her that her husband was ñrather sickò. She would later learn that this was an understatement and that Collins was, in reality, close to death.

A company representative, in trying to minimize the seriousness of the illness, provided additional details to Rita over the phone indicating that Collinsô condition was extremely grave. Somehow, Rita in a near panic, managed to drive her sister, Catherine, at speeds approaching 80 mph, more than 150 miles to Lake Charles where Captain Collins now lay in intensive care partially paralyzed, incoherent, and just barely conscious.

After several days as his condition stabilized, Collins was transferred by ambulance to the Terrebonne General Medical Center near his home in Houma, LA, where he would spend several weeks in the rehabilitation unit. It was at this point where friends, family, and eventually GCMA officers would first view the devastation caused by the stroke that left Collins paralyzed on his left side and barely able to speak.

Two and a half years later, Collins remains paralyzed on his left side. He is wheelchair-bound, unable to walk without direct supervision, cannot write or use his left hand. Much water passed under the bridge in the 2½ years since his stroke.

Collins Verretôs story should provide food for thought for any mariner who choses or is forced to do the work of two men, work long hours often under harrowing conditions and to the point of exhaustion on the job.

According to testimony taken under oath, Collins Verret was an exemplary mariner. During his 45 years of service in the marine industry, he had a clear Coast Guard record, a clean driving record, had never been involved in a serious accident. He was well liked by his company personnel manager who considered him a ñfriendò and was respected by both his crew as well as the customer he was working for. One crewmember went so far as to say that both of the barge captains on the MIDNIGHT BRAVE ñlovedò him. It was clear that when Barge-Captain Nini heard of Collinsô stroke he moved heaven and earth to get an evacuation helicopter into the air and en route to the sceneï with no delay and with no inane questions as to who would pay the bill. Collins is friendly and soft-spoken and was dedicated to performing whatever job he is given to the very best of his abilityé as he proved by sacrificing his health in this case.

This case can provide several very important lessons for our mariners. One of those lessons involves the stress and fatigue that working on commercial and largely unregulated towing vessels can cause.

In the mid-1990s, Captain John R. Sutton, President of the American Inland Mariners Association (AIM), made inquiries of many knowledgeable masters and river pilots and found that their average lifespan was only slightly over 57 years. His study was as thorough as possible under the circumstances although admittedly not ñscientificò.

For ñscienceò in Captain Verretôs case, we rely on the sworn testimony of Dr. John Stirling Meyer, a researcher on stroke at the Veterans Administration Medical Center and Professor at Baylor College of Medicine in Houston, TX. Dr. Meyer presented an expert opinion that stated in part: ñThe fatigue, sleep deprivation, and stress experienced by Captain Verret, more probably than not, aggravated or contributed to his strokeò. This testimony given in a 115-page deposition is so convincing that we forwarded a copy to the National Transportation Safety Board to consider as supporting evidence in their ongoing ñscientific hours-of-workò project.[1] *[(1)NTSB Recommendation M-99-1.]*

Captain Verret was 59 years of age at the time of the stroke that left him permanently and completely disabled. ñDisabledò means that Collins must spend the rest of his life in a wheelchair dependent upon his wife, Catherine, and other members of his immediate family as caregivers.

At GCMA we hear of many mariners that have worked on boats all their lives with the intention of retiring from the industry somedayï as Captain Verret planned to do in several years. Regrettably, many mariners develop health problems that force them out of the industry before they can reach an age covered by Social Security and/or Medicare. This is a result of the aging process accompanied by stressors unique to this industry including:

Åunreasonably harsh working conditions;
Ålong-term vessel undermanning;
Åworking with untrained crewmembers including ñgreenò deckhands prone to accidents;
Åworking excessively long hours;
Årunning the boat in rough weather, during hours of darkness and in fog with limited visibility;
Åenduring years of poor diets;
Ådrinking unsanitary and impure drinking water;
Åfrequent interruptions of sleep by noise and vessel motion;
Åyears of smoking or being forced to live with exposure to second-hand tobacco smoke;
Åhigh accident rates caused by dangerous and largely unregulated working conditions on uninspected towing vessels.[1] *[(1)Refer to GCMA Report #R-276, Rev.4.]*

These conditions help to explain why the ñaverageò lifespan of a towing vessel officer may be as low as 57 years and, for survivors, stands in stark contrast to the date where Social Security and/or Medicare coverage kicks in.

In addition, many ñlower-levelò mariners work ñoff-and-onò for many different employers and have no viable plans to fund their retirement. Few boat companies offer pensions that have a reasonable expectation of rewarding years of loyal service! In fact, with so many mergers, buyouts, and other wheeling and dealing common to this industry, coupled with the cyclical nature of the towing and oil sectors, simply holding a job requires a high degree of luck and never rocking the boat. It is virtually unheard of to question policies dictated by mid-level executives who, like R & B Falconôs personnel director, never had any first-hand experience working on boats. Without this experience, it is easy to see why ñthe companyôs bottom lineò took precedence over assigning a second trained and experienced mate to assist with the training duties dumped on Captain Collins Verret.

There are so many bumps and pitfalls in the job market facing our ñlower-levelò mariners that union membership, training, insurance, and the other plans membership offers provide the only potential cure to these ills on the credible horizon. Above all, union membership requires mariners to face these issues squarely and work together with other company employees and not at cross purposes to solve problems that both the employers and the Coast Guard chose to ignore for years and, most likely, will continue to ignore.

This story reinforces and updates the letters written by dozens of our mariners relating the <u>true</u> stories of violations of work-hours statutes in our ñYellow Bookò. We watched in shock and amazement as the Coast Guard at the Eighth District and at the national level ignored constant violations of the laws designed to protect our mariners. We heard the President of the Offshore Marine Services Association (OMSA), a trade association representing offshore vessel owners, deny that work-hour violations even exist. We watched the National Offshore Safety Advisory Committee (NOSAC), a federal advisory committee appointed by the Secretary of Transportation, cater to industry wishes and try to sidetrack and dismiss our allegations of work-hour violations. This came to a boil in April 2002 when a dozen angry GCMA members traveled to Coast Guard Headquarters and dumped NOSACôs bungling back into the Coast Guardôs lap claiming (after wasting 1½ years) that it had no power to investigate our claims. In spite of promises extracted from RADM Pluta, the Coast Guard never investigated a single one of the 57 separate claims about the ongoing statutory violations. The Coast Guard apparently has no plan to have the owners of uninspected towing vessels or offshore supply vessels ñclean up their actò by adequately manning their vessels and stop overworking their personnel. Finally, in February 2003, GCMA pulled the problem from the Coast Guard and brought it directly to the attention of the media and several Congressional Committees.[1] *[(1)Refer to GCMA Report #R-350.]*

This report will give our readers an idea of the problems a seriously injured mariner faces to receive the care and attention he rightfully deserves following an accident. Captain Verretôs sister-in-law, Rita Billiot, called GCMA on behalf of her family for advice. GCMA recommended that the family seek legal counsel from Mark L. Ross, Esq., of Lafayette, LA. Mr. Ross visited with the family at the hospital in Lake Charles, LA, on the day after the accident and took charge of the situation to ensure that Collinsô immediate and long-term medical needs were attended to. In doing so, he sought to work with the company, R & B Falcon, and its insurer. When the attorneys for Delta Towing made this impossible, Attorney Mark Ross filed a lawsuit and brought the matter to a head. In the meanwhile while Delta Towing procrastinated and failed to come forward with the mate, a key witness to this tragic event for almost two years. During this time, Collins and Catherine and their family were left to their own limited means to do their best to try to cope with their shattered lives. This part of the story is unforgivable on the part of Delta Towing (as successor to R & B Falcon) and is something that GCMA condemns them and their attorneys for perpetuating.

In acknowledging the referral of this case, Attorney Mark Ross reminded GCMA officers that he owed his undivided allegiance to his client, Captain Collins Verret and his family, and that he would do his best to secure a fair and full monetary settlement for them so that they could try to pick up the pieces of their lives.

Since this was the most horrendous example of a violation of the 12-hour statute we had seen to date, GCMA hoped that a <u>victory in court</u> based on violations of the 12-hour rule would prove once and for all that all li-

censed mariners were clearly entitled to protection under the law. This did not happen because this case, like so many others finally was settled quietly ñout of courtò. Consequently, the towing company can say it broke no laws, is guilty of nothing, and settled amicably with their former employee. Itôs the truth, but it is certainly not the whole truth. This is why we have examined this case carefully.

Nevertheless, this settlement did ensure that Captain Verret and his family would receive compensation for damagesï after 2½ years of privation, anxiety, and suffering. Sadly, the damage done to Collins and his family can never be repaired or restored.

If a Judge had arrived at a decision after court proceedings, his decision might have set a clear precedent all injured mariners could look to. However, at this point, GCMA believes it would be best to replace the existing 12-hour statute by ñscientifically based hours-of-work regulationsò. Nevertheless, Congress will have to order such a thing to happen. Hopefully, any new laws will be based on suitable studies and will result from the safety recommendations evaluated by the National Transportation Safety Board. This is unlikely to happen unless all ñlower-levelò mariners take a stand on this issue and refuse to be a party to breaking existing work-hour laws and regulations.(1) Surely, scientifically based regulations could not be any worse than the existing 84-hour workweek that employers violate with impunity and the Coast Guard refuses to enforce. *[(1)Refer to GCMA Report #R-344, Mariners' Rights.]*

UNGRATEFUL COMPANY OWNERS AND OFFICIALS

[Article by Rita Billiot in GCMA Newsletter #8]

I am prompted to write this letter after what happened to my brother-in-law.

Collins has been a mariner all his life. He's in his late 50's. He was working on the boat when he had a stroke. Crewmembers found him on the deck in his room,(1) where he had gone to try to get some rest after working far beyond his normal shift.(2) He is left-handed; now he is paralyzed on his left side and confined to bed and a wheelchair. ***[Editorial notes:*** *(1)See "Lies, Ignorance, or Incompetence?" below. (2)The "truth" is that he had worked for almost 48 hours without meaningful relief. This was revealed in depositions taken two years after the stroke.]*

He was being overworked on the job. Nobody cared that he could not get the rest he needed, and did not eat right. He is now is a man that is not able to do anything for himself anymore. He is depressed all the time, feels useless because he cannot support his family anymore. His son had to drop out of school to help his mother, who is not well herself, to take care of his dadé

What gets to me the most is that not one of the company owners or officials from the company office ever went to the hospital to see about him. They have not as much as called. They even tried to get out of paying his benefits by saying that it was not an "at fault" incident. Might I say though, that members of the GCMA did go see about him and have kept up with his progress.

With all I have seen with my husband being a mariner (and my brother and brother-in-law were also mariners), these company "higher ups" are the most unappreciative, ungrateful, unconcerned bunch of employers I have ever seen. They could care less about what happens to these men when they get hurt while working for them or get fired for a stupid reason, as happened to my husband.(1) As long as they have their bills paid, drive their nice vehicles, go home to their fancy houses in the best neighborhoods, eat at the finest restaurants, they simply don't care. They need to remember one thing though. It's our husbands, the men who sweat and risk their lives and licenses that make possible the owners big fat paycheck. *[(1)R & B Falcon. Fired for refusing to leave port on an international voyage until his boat's navigation equipment was repaired. Sued and recovered for wrongful termination.]*

Who am I? I am a concerned wife of a seaman who is fed up with the abuse and the neglect from these companies. I am staying in contact with the GCMA to try to put a stop to these companies that are abusing and neglecting their employees. Since there are "rules and regulations" for the mariners to follow and there should be "rules and regulations" for these companies to be held accountable for as well. They need to be held accountable for breaking the rules just like the seaman are when something happens on a boat. Sincerely, Rita Billiot.

LIES, IGNORANCE, OR INCOMPETENCE?

Somewhere around 11:30 on the evening of December 2, 2000, in very rough weather while returning to the pipelaying barge they were servicing, the mate of the MOHAWK EAGLE on reaching the pilothouse found the tugboat plowing through heavy seas on automatic-pilot with Captain Verret lying on the pilothouse floor. One deckhand was told later that morning that he was told that Collins ñé was laying on his knees by the chair holding on.ò The mate asked if Collins hurt himself and Collins reportedly said, ñnoò and that he was simply tired and just wanted to sleep. The mate found this highly unusual, said he suggested that Collins go below to his cabin but reported receiving a reply that it was too rough to go below. The mate gave him a pillow and left him lying on the deck.

Collins had suffered a stroke that the mate apparently did not recognize.

For the next six hours, Collins continued lying on the pilothouse floor, apparently asleep. It was only when the pipelaying barge called at 05:30 the next morning to start the dayôs work that the mate attempted to arouse Collins but was unable to do so. When his deckhand reported for duty at watch change, he had him call the cook and asked him to bring Collinsô sleeping bag to the pilothouse. The cook examined Collins and immediately concluded that he was seriously ill. He, thereupon, reminded the mate he was now the captain of the vessel, and urged him to call the barge captain to ask the Emergency Medical Technician (EMT) assigned to the lay barge to examine Collinsï which he did as well as calling his office.

The mate maneuvered the tug near the barge and the EMT made a harrowing leap in 6-8 foot seas and proceeded to examine Collins on the deck of the pilothouse and, following a detailed examination, declared that he had suffered a stroke. The barge captain, who knew and had great respect for Captain Verret, immediately called for a commercial evacuation helicopter that set out promptly for the barge. Three riggers and three tug crewmembers put Collins in a litter basket, carried him down to the after deck, and transferred him by personnel basket to the lay barge from which the helicopter brought him ashore.

The delay in determining that Collins had suffered a stroke was critical to his recovery and could have cost his life. According to the expert testimony of Dr. Meyer: ñThe delay of six hours prior to his receiving medical attention, more probably than not, denied him the benefits of TPA therapy, as the earlier the TPA treatment is administered within three hours for ischemic stroke the better the outcome.ò

The family was told, and believed, that Collins had suffered a stroke in his stateroom sometime during the night. It only became apparent in a deposition given under oath more than two years later that Collins had really collapsed in the pilothouse as the vessel was running on autopilot and was left to lie where he fell for more than six hours without summoning medical attention from the nearby barge or from the Coast Guard. One story recited by one of the deckhands indicated that he sat for a while in the pilothouse with the mate in the dark while Collins lying on the deck and that Collins responded to their questions. Collins recalls nothing of events after about 11:00 in the evening or of his stroke until he was revived in the hospital. The mate, however, denied that the deckhand ever sat in the pilothouse that night. When Catherine heard the mateôs statement under oath in the deposition two years after the fact, it was ñas if he had cut my heart out.ò

Dr. Meyer, a renowned stroke treatment specialist, stated clearly in his testimony that giving TPA therapy after the initial three-hour window of opportunity passes can clearly endanger the life of the patient. However, it appears that there was no clear transfer of information as to when the stroke occurred (was it at 11:30 p.m. or 5:30 a.m.?). Consequently, Collins received the TPA treatment far beyond the ñwindow of opportunityò on his arrival at Lake Charles Memorial Hospital. This late treatment alone could have killed himï but, fortunately, did not.

The irony is that the mate had taken two complete first aid and CPR classes earlier in the year during his licensure and later as a part of his STCW training. Yet, he either failed to recognize the signs of stroke that he should have learned in school or failed to take decisive action and call either the barge or his home office for six hours. Was it gross incompetence or plain ignoranceé we may never knowï but there certainly were a number of lies and other misleading information that needed to be unravelled!

MAINTENANCE AND CURE

Maintenance. As a matter of law, a seaman is entitled to maintenance and cure from his employer if he becomes injured or ill while working aboard his vessel. In some circumstances, a seaman may be entitled to maintenance and cure if hurt while working in the course of his employment even if off his vessel.

ñMaintenanceò is a form of seaman's workers' compensation. Maintenance is a daily stipend, generally in the $15 to $20 range. However, if you can show your living costs are more than $15 to $20 per day, as is usually the case, you can prove what your actual living expenses are to a court and get an award for the amount. Generally, maintenance includes expenses like room and board that you would not have to pay if you still worked aboard your vessel. Shoreside costs like clothes cleaning bills would not be included under maintenance.

A boat company must pay an ill or injured seaman maintenance from the day he became ill or injured until he recovers. Alternatively, a boat company must pay its ill or injured seaman maintenance until a doctor says the seaman has reached maximum medical cure. Maximum medical cure is the point where, although a seaman may still be ill, a doctor says he cannot do anything more to improve the seaman's condition.

If the question of whether a seaman has reached maximum medical cure is disputed by the boat company and the seaman, a court can decide the issue. Generally, a court will favor the opinion of the doctor who has actually treated the seaman, as opposed to a company "independent medical examiner" physician who may have only seen the seaman once or twice.

Cure. Cure is a maritime term meaning that a boat company has to pay a seaman's medical bills arising out of the illness or injury the seaman suffered while on duty aboard his vessel. A boat company must pay 100% of the seaman's medical bills even if the seaman has health insurance. The boat company has to pay 100% of the injured or ill seaman's medical bills until the seaman reaches maximum medical cure.

Defense to payment of maintenance and cure– concealment and misconduct. A boat company can avoid paying maintenance and cure for only two reasons. First, a boat company does not have to pay maintenance and cure if they can show the seaman lied on his employment application about his health. A common example is if a seaman says he hurt his back while working. If the boat company finds that the seaman hurt his back before working for that company, but denied any prior back injury on his employment application, the boat company could refuse to pay maintenance and cure for the second back injury. The prior injury must be directly related to the injury or illness at issue, however, the boat company's employment application must clearly ask the seaman about the prior illness or injury.

Second, a boat company can avoid paying maintenance and cure if a seaman's injury or illness results from "misconduct". Most "misconduct" cases involve someone getting sick or hurt due to misuse of drugs or alcohol. Courts have similarly ruled that a seaman cannot get maintenance and cure from illnesses caused by sexually transmitted diseases or from active AlDs since those are likewise deemed to result from "misconduct".

This article is not intended to be a complete discussion of this often complicated area of seaman's rights. GCMA wants to inform its members that these rights and remedies exist so that, if necessary, they can ask their employers or an attorney about their rights to maintenance and cure. *[The article on Maintenance and Cure appeared in GCMA Newsletter #4 and was prepared by Mark L. Ross, Esq., 600 Jefferson Street, Suite 501, Lafayette, La. 70501. Telephone (337) 266-2345. FAX (318) 266-2163.]*

BIG DEALS IN THE MAKING

Collinsô stroke was probably the last thing on the minds of the executives of the large corporation that Collins worked for as December 2000 turned into January 2001. Only recently had R&B Falcon consolidated a number of smaller local towing companies including Double Eagle into one large local towing conglomerate when they were forced to turn over control of their vessels to another large company for reasons recited in the following news article.

MERGER RESULTS IN NEW VESSEL COMPANY

[By Bill Evans, The Waterways Journal, Feb. 19, 2001, pgs 3, 6.]

A recently concluded merger of major players in the international oil and gas industry and a joint-venture with two Louisiana businessmen has resulted in creation of Delta Towing LLC, operators of a 202-vessel fleet of inland tugs and towboats, offshore tugs, crewboats, and service barges, with another 10 crewboats under construction.

Transocean Sedco Forex, Inc. on January 31 (2001) announced closing of its merger with R & B Falcon Corporation, creating an offshore drilling contracting firm with a megafleet and worldwide operations. Both Transocean Sedco Forex and R & B Falcon are Houston, TX-based companies.

Prior to the merger, Transocean Sedco Forex billed itself as the world's largest offshore drilling contractor. The firm's stock is traded on the New York Stock Exchange under the symbol "RIG." R & B Falcon Corporation operates the world's largest fleet of marine-based drilling units servicing the international oil and gas industry.

Because Transocean Sedco Forex is a foreign-owned corporation chartered in the Cayman Islands, under terms of the Jones Act the firms were required to either spin off the R & B Falcon marine transportation fleet or limit its ownership in the fleet to no more than 25 percent.

Delta Towing LLC was formed as a joint venture between Transocean Sedco Forex, R & B Falcon, and Gary and Laney Chouest, principals in Edison Chouest Offshore of Galliano, LA. The joint venture became effective upon conclusion of the Transocean/R & B Falcon merger January 31. Under the joint venture agreement, Delta Towing will own and operate the former R & B Falcon marine transportation fleet, consisting of 72 inland tugs and towboats, 34 offshore tugs, 28 crewboats plus the 10 under construction, and 66 service barges. The fleet includes two additional vessels, but Lonne Thibodeaux, Edison Chouest Offshore director of corporate communications, said last week he was unsure of their type. In addition, Delta Towing charters another 15 vessels, he said.

ñThe vessels will operate both inland and offshore, in both oilfield and general towing service,ò said Thibodeaux. Details of the planned operation including any vessel name change plans were not immediately available.

R & B Falcon will receive $80 million in the form of a secured contingent note, plus other contingent consideration, and will retain 25 percent ownership in the operation, the firms said in an earlier announcement.

"This acquisition clearly fits with our current expansion plans into the inland and river services market," said Gary Chouest in the announcement.

Calling the R & B Falcon marine fleet "a welcome addition to the existing Chouest fleet," Laney Chouest said "The transaction will accomplish the Chouest goal of becoming a full marine supplier offering a full range of services, complementing our sizeable number of new-generation deepwater service vessels and the remainder of our 'blue-water' fleet with a large fleet of inland 'brown-water' vessels." Edison Chouest Offshore operates more than 120 vessels and employs more than 3,000 people worldwide.

THE LAWSUIT

1. Factual Background.

In December 2000, Antoine Collins Verret was a 59 year old resident of Houma, Louisiana, a life-long licensed mariner and captain of the anchor handling tugboat M/V MOHAWK EAGLE, a vessel then operated by R & B Falcon Marine. In January 2001, R & B Falcon and two other marine companies became Delta Towing LLC.

In late 2000, mate Leroy "V" began to work aboard the anchor handling vessel M/V MOHAWK EAGLE. Mr. V obtained his mate's license in February 2000, but had little or no experience handling anchors. As more fully explained below, Delta's decision to burden Captain Verret with an untrained ñreliefò pilot forced Captain Verret to work well over 12 hours a day. This stress in turn eventually caused Captain Verret to suffer a stroke on December 2, 2000 that left him wheel chair bound and permanently disabled.

a. Delta tells Captain Verret to train new mate in anchor handling techniques.

In late 2000, Delta assigned Mr. V to act as Captain Verret's relief pilot aboard the M/V MOHAWK EAGLE. The M/V MOHAWK EAGLE was the first anchor-handling vessel on which Mr. V had worked. Since Mr. V had little or no experience in anchor handling operations, Delta directed Captain Verret to train Mr. V. Delta had no program, procedures, tests, or written materials of any kind on how to train newly licensed mates to become relief pilots on anchor handling tugs. Additionally, Delta did not give Captain Verret any help to train his own ñreliefò pilot. Delta had the option of pairing Captain Verret with an experienced relief pilot while training Mr. V. Both Captain Verret and his experienced relief could then take turns training Mr. V. However, Delta chose to let the burden of training Mr. V rest with Captain Verret alone.

Captain Verret had to teach Mr. V to use the winch controls, hook buoys, and pick up anchors. Captain Verret first let Mr. V watch him perform these tasks, then try himself so Mr. V could get the feel for it. A MOHAWK EAGLE deckhand recalled that since Mr. V did not know how to perform anchor handling operations, "the old man (Captain Verret) had to be up long hours showing him, teaching him, you know."

b. Captain Verret had to work excessive hours to do his job and then train his own "relief" pilot.

As experienced offshore mariners know, an anchor handling vessel can work up to 24 hours a day. A M/V MOHAWK EAGLE deckhand recalled the vessel ran anchors for the lay barge MIDNIGHT BRAVE near High Island, West Cameron Block, Gulf of Mexico on the day Captain Verret suffered his stroke. The deckhand said the vessel was running anchors, "24 hours a day, constantly running anchors with them." Mr. V, the relief pilot, likewise recalled, "one time I was pulling anchors, I stayed in the doghouse for six hours, oh yeah, and it was rough." Until Captain Verret trained Mr. V to at least some minimal level of anchor handling skill, Captain Verret was the only person on the M/V MOHAWK EAGLE who could perform all of the vessel's anchor handling assignments.

Mr. V felt that Captain Verret taught him how to pull anchors after two days of intensive training. During these first two days of training, Captain Verret worked his own two six-hour shifts and then trained Mr. V. Mr. V recalled he could sleep while off duty but that Captain Verret, "yeah, the first two days he had to watch me, you know." However, after only two days of training, Mr. V could not place or take away anchors from a barge. Captain Verret had to perform those tasks during Mr. V's shifts. Likewise, Mr. V could not set up the vessel's tow cable to tow a barge.

R & B Falcon's former personnel manager agreed in sworn deposition testimony that if a trainee-mate cannot put or take anchors off a barge, nor set up a tow, then that mate should not serve as a relief pilot on a working anchor handling tug.

Mr. V knew that some vessel captains do not like to train new mates but prefer to work with experienced relief pilots, "...because they don't like to lose no sleep, and they like to get their rest". Mr. V acknowledged that many captains prefer to work with an experienced relief pilot because he, "é can do his own job, you know, so he (the captain) can get rest and not worry about what's going on out". Mr. V understood that with an inexperienced, trainee relief pilot on board a vessel:

> ñWell, the captain is going to stay up and wonder if he can do the job, you know, oh yeah. Because he's always going to have in the back of his mind if something is going to happen or not. When a captain is compelled to train his own supposed ñreliefò pilot," é they can be up 24 hoursé "

c. Captain Verret had to stay up almost 24 hours before his stroke to navigate his vessel due to his "relief" pilot's inexperience.

Delta assigned Mr. V to be Captain Verret's supposed relief pilot for the last time the week of November 26, 2000. On December 1, 2000, shortly after midnight, the M/V MOHAWK EAGLE, departed the Gulf of Mexico and sailed to Port Arthur, Texas, to repair the gear box on the vesselôs winch. Mr. V dial not know Port Arthur. Captain Verret, therefore, brought the vessel into port. A former M/V MOHAWK EAGLE deckhand confirmed Captain Verret had to take the vessel into Port Arthur because, "Leroy, he didn't know his way in there too good..."

Captain Verret attempted to take a short nap while the vessel was in Port Arthur, but repairs were quickly performed and the vessel was soon headed back out to sea.

While in Port Arthur, Captain Verret did have the chance to call his wife, Catherine, to say hello. Among other topics, Captain Verret told his wife that he had been working with little sleep over the last several days and looked forward to the end of his shift.

Captain Verret took the M/V MOHAWK EAGLE out of Port Arthur given Mr. V's lack of familiarity with the area. Additionally, Captain Verret believed he should pilot the vessel because of bad weather. By December 2, 2000, an already-exhausted Captain Verret had been working with little opportunity for rest for the better part of the entire day. A former M/V MOHAWK EAGLE deckhand estimated Captain Verret remained at the wheel or was otherwise on duty the day of his stroke, "...at least 18 to 24 hours..."

d. Mr. V finds Captain Verret collapsed can the pilot house floor and leaves him there.

At 11:00 p.m. the evening of December 2, 2000, Mr. V went to the M/V MOHAWK EAGLE's pilothouse. Mr. V found Captain Verret lying on the pilothouse floor. At the time, the M/V MOHAWK EAGLE was sailing through the storm-tossed seas of the Gulf of Mexico at night on automatic pilot. Mr. V did not try to get Captain Verret any medical aid, contact other crew members, or radio Delta Towing. Instead, Mr. V supposedly asked Captain Verret if he fell. Mr. V then got Captain Verret a pillow so he could "sleep" on the pilothouse floor. Captain Verret was not "sleeping" but had suffered a stroke.

Mr. V sailed on to the lay barge MIDNIGHT BRAVE, arriving at 24:00 hours, December 2, 2000, an hour after finding Captain Verret on the pilothouse floor. Mr. V left Captain Verret on the floor until 6:30 a.m. the next morning while he circled the lay barge due to heavy seas. Mr. V did not radio the MIDNIGHT BRAVE's crew that he found Captain Verret laying on the pilothouse floor. The lay barge MIDNIGHT BRAVE had a paramedic among its crew.

At 6:30 a.m., Mr. V tried to waken Captain Collins to begin his shift. However, Captain Verret could not get up. Mr. V began to realize something was amiss with Captain Verret. He, therefore, finally radioed the lay barge MIDNIGHT BRAVE. The barge's paramedic came aboard the M/V MOHAWK EAGLE and quickly confirmed that Captain Verret had suffered a stroke.

Mr. V held a United States Coast Guard mate's license for motor vessels not exceeding 200 tons. Mr. V's license required him to be trained in First Aid and CPR and recognize the symptoms of a stroke. Delta Towing supposedly held safety meetings and distributed written materials to its employees on how to recognize and respond to strokes. Mr. V could have radioed for a medevac helicopter to meet him at the lay barge to evacuate plaintiff. When the MIDNIGHT BRAVE's captain called an Acadian Air Ambulance helicopter to evacuate Captain Verret, it took the helicopter only 37 minutes flying time to arrive at the lay barge. Prompt medical treatment, including an anticoagulant injection given within three hours of Captain Verret's stroke, could have reduced or eliminated permanent neurological damage to Captain Verret. However, due to Mr. V's inability to recognize or respond to Captain Verret's predicament, his medical care was needlessly delayed for over nine hours. Captain Verret is now consigned to a wheel chair with left arm and leg paralysis.

2. Legal issues.

a. Mr. V's inexperience rendered the M/V MOHAWK EAGLE "unseaworthy."

Delta's decision to burden Captain Verret with an unqualified, trainee ñreliefò pilot, rendered the M/V MOHAWK EAGLE "unseaworthy" as a matter of law. The law holds that an owner is responsible to his seaman-employees, including the captain, for injuries caused by a vessel's unseaworthiness. A vessel can be unseaworthy when its crew is inadequate or incompetent. A vessel owner's duty to provide a competent crew is absolute and nondelegable. The vessel owner can be liable for a vessel's unseaworthiness regardless of the vessel owner's negligence or failure to exercise reasonable care. Delta knew Mr. V could not perform the duties of an anchor handling relief pilot since Delta directed Captain Verret to train Mr. V.

b. Delta committed a statutory violation of the 12-Hour Rule.

Delta's decision to burden Captain Verret with a trainee relief pilot forced Captain Verret to work well over 12 hours a day pulling his own shifts and then training and supervising Mr. V. Until Captain Verret taught Mr. V minimum anchor-handling skills, Delta put Captain Verret in a position where he was forced to work continuously.

46 U.S.C. Section 8104(h), known as the "12-Hour Rule" says: (h) On a vessel to which section 8904 of this title applies, an individual licensed to operate a towing vessel may not work for more than 12 hours in a consecutive 24-hour period except in an emergency.

46 U.S.C. Section 8904 applies to a towing vessel like the M/V MOHAWK EAGLE.

c. USCG interpretation of 12-Hour Rule.

The United States Coast Guard has issued a Policy Letter regarding the 12-Hour Rule, G-MOC Policy Letter 4-00, entitled, "Watchkeeping and Work-Hour Limitations on Towing Vesselsé The Coast Guard's Policy Letter, among other things, defines the period of rest to which semen are entitled by law:

> *(c) Rest* means a period of time during which the person concerned is off duty, is not performing work, including administrative tasks..., **and is allowed to sleep without being interrupted**.

The Coast Guard further mandates:

> (f) 46 U.S.C. Section 8104(h) establishes that operators of towing vessels subject to 46 U.S.C. Section 8904 are not permitted to work in excess of 12 hours in any consecutive 24-hour period, except in an emergency.

Captain Verret and relief pilot Mr. V were supposed to work were six-hour alternating shifts. Captain Verret therefore should have had the opportunity to enjoy up to six hours of uninterrupted sleep, consistent with the Coast Guard's mandate that:

> (b) The hours of test may be divided into no more than two periods, of which one must be at least 6 hours in length.

However, Captain Verret rarely, if ever, enjoyed six hours of uninterrupted sleep from the time Mr. V came on board his vessel.

d. Other courts have found that violations of the 12-Hour Rule have caused a seaman's stroke or other illness.

The courts previously found that violations of the 12-Hour Rule caused or contributed to a seaman's stroke, illness or accident. The court in *Smith v Cameron Crews, Inc.,* 348 So.2d 179 (La. App. 3d Cir. 1977), found that the stress resulting from an undermanned boat working in the Gulf of Mexico contributed to the towboat captain's stroke. The vessel's Certificate of Inspection required the vessel be manned with two licensed operators and two deckhands when operating more than 12 hours a day. The vessel never had more than the plaintiff and one deckhand aboard regardless of how long; the vessel operated.

The plaintiff presented the medical testimony of his treating physicians that many things can contribute to stroke and heart attack and, "...that the stress of the job in the Gulf of Mexico was one contributing factor among many..." The court found that since, "...the strain of being on call often 24 hours a day was very stressful", that the violation of the boat's manning certificate contributed to the plaintiffs stroke.

The court in *Elms v. Crowley Marine Service, Inc.,* 1997 A.M.C. 835 (W.D. Wash. 1996), found that a seaman's fall from a barge in tow resulted from fatigue caused by continuous violations of the 12-Hour Rule. In *Bradt v. United States, et al,* 122 F.Supp. 190 (E.D.N.Y. 1954), aff'd, 221 F.2d 325 (2d Cir. 1955), the court held that the plaintiff, Bradt, "...suffered tuberculosis as the result of the pattern of overwork enforced upon him because of the consistent undermanning of the vessel." Similarly, in *Gajewski v. United States, et al,* 540 F.Supp. 381 (S.D.N.Y. 1982), the court found that the plaintiffôs pulmonary embolism resulted from the constant violations of the maximum work hour limitations and concluded, "The excessive hours tolled by Mr. Gajewski aboard the Neches constitute a patent violation of the Jones Act.,."

e. Vessel owners have a duty to provide seamen with prompt medical care.

The United States Supreme Court has long held a seaman's employer liable for damages resulting from his failure to promptly provide an injured or ill seaman prompt medical care: "The duty to provide proper medical treatment and attendance for seamen falling ill or suffering injury in the service of the ship has been imposed upon the shipowners by all maritime nations". *The Iroquois,* 194 U.S. 240, 241042, 24 S.Ct. 640 (1904). A shipowner may be sued for his negligent failure to provide his seamen prompt medical care. *Cortes v. Baltimore Insular Line, 287 U.S. 367, 376, 53 S.Ct. 173(1932);Motts v. M/V GREEN WAVE, 210 F.3d 565 (5th. Cir. 2000); De Centeno v. Gulf Fleet Crews, Inc*, 798 F.2d 138, 140 (5th Cir. 1986*); Holliday v. Pacific Atlantic Steamship Co.,* 197 F.2d 610, 613 (3d Cir. 1952*); Fitzgerald v A.L. Burbank & Co.,* 451 F.2d 670, 679 (2d Cir. 1971), *Olsen v. American Steamship* Co., 176 F.3d 891, 895 (6th Cir.1999)

Mr. V's failure to promptly recognize and obtain treatment for Captain Verret when he found him on the pilothouse floor caused or worsened plaintiff's current permanent and total stroke-related disabilities. In the case of *Motts v. M/V GREEN WAVE,* 50F.Supp. 2d 634 (S.D. Tex. 1999), aff'd in part and rev'd in part, 210 F.3d. 565 (5th Cir. 2000), the court discussed a vessel's failure to obtain medical care for a vessel engineer, Motts, who suffered a fractured pelvis in the waters of

Antarctica. Mutts died after arriving back in the United States.

The captain of Motts' vessel never told an assisting U.S. Coast Guard vessel, the M/V POLAR STAR, about the seriousness of Mott's injuries; "Incredibly, while Captain Peter Stalkus and Chief Mate Christopher Murray suspected by now that Mr. Motts had sustained a serious fracture...no mention of this was made to the attending POLAR STAR". Since, like the lay barge MIDNIGHT BRAVE, the U.S. Coast Guard's POLAR STAR was equipped with trained medical personnel, the court found the defendants' failure to advise the POLAR STAR that Motts "required immediate medical assistance" to be "inexplicable" and "remarkably negligent". The court held:

> The Court finds that the Master and Chief Mate were not competent to evaluate and determine appropriate medical care for a crewmember, and **this incompetence was negligent and/or rendered the M/V GREEN WAVE unseaworthy**.

In *Holliday v. Pacific Atlantic Steamship Co.,* 197 F.2d 610,613 (3d Cir. 1952), the court found that the captain's delay of 15 hours or more in obtaining a physician for an obviously ill seaman negligence and a serious dereliction of duty owed the seaman. In short, no matter what the cause of an initial illness or injury on board a vessel, the seaman's employer must use every reasonable effort to obtain prompt medical care for the injured or ill seaman.

f. Settlement of the Verret case.

The damages claimed in the Verret lawsuit filed in the United Stated Federal Court in Lafayette, Louisiana were over $3,000,000. The undersigned counsel hired medical and economic experts that showed that Captain Verret's past and future medical costs alone exceeded $2,000,000. Fortunately, by gathering evidence and building up the facts of their case, the Verrets convinced Delta Towing and their insurers of the wisdom of settling Captain Verret's case before trial for a sum sufficient to take care of the Verrets' needs for the rest of their lives.

CONCLUSION

A shipownerôs failure to properly man a vessel with trained seamen can render the vessel unseaworthy. In addition, the shipowner can be found guilty of a statutory violation if its failure to properly man a vessel causes a seaman to suffer an injury or an illness like a stroke or heart attack.

A shipowner-employer must diligently obtain prompt medical care for the injured or ill seaman, regardless of the cause or any question of fault. A ship- owner-employer's failure to do so can make him liable for any aggravation of the injury or illness caused by a delay or total failure to provide a seaman-employee prompt medical care.

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