



MOSCHETTA LAW


The River Lawyers

Getting Justice for Your Maritime Claim

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On nearly every work site, across the country and around the world and through time, people get hurt. Workplace injuries are a fact of life. Most of the time, Workers' Compensation handles everything. However, when the injury arises due to the employer's negligence or the fault of another employee, or even due to faulty equipment, employees often can bring a regular claim in civil court. Such claims can help the injured worker get medical bills paid. Furthermore, they can also serve as a means of compelling the employer to fix the underlying problem for good. As a result, justice is served and future workers are spared injury.

The Maritime Law Difference

However, things can be rather different when your work and/or your injury are in the maritime realm. Maritime law comes into play when you or a loved one become the victim of an injury while working a seaman, ship maintenance personnel, a dock worker, or other related position within the maritime industry. Maritime law protects workers and employees of the maritime industry. However, it also protects boating and water sport enthusiasts who may get hurt due to the negligence of an employer, another employee, or even another party.

Complexity

No doubt about it, maritime law is complicated. And so you need to know the steps to take and the processes to follow in order to best secure your claim. While success is never guaranteed, following these steps will increase your chances of success.



Do These Now

You will best preserve your claim and your rights by doing three things **as soon as possible**.
As in, right after you finish reading this article.



1. Record a Statement

Most likely, you will get an incident report from your employer, and they will ask you to fill it out. However, those forms can be rather rigid, and they might leave out the truth of the matter. And don't forget; your employer has provided the form. While they want to get to the truth, they also want it to reflect on them as positively as possible. So instead, write down precisely what happened in your own words. This is information which should go to your [Jones Act attorney](#), so you want to be as detailed as you possibly can be, and do this as close to the time of the incident as possible.



2. Get Ready to Answer Basic Questions about What Happened

When you first get in touch with a Jones Act attorney, he or she will ask you a number of questions. And while you may be tempted to just refer to your written statement – don't. The lawyer wants to gauge any number of specifics about your case when asking. It is everything from how articulate you are to how well your information matches your written statement to even how flustered you might become if pressed. When your lawyer knows these things about you, they are much better equipped to help with your claim.



3. Get in Touch with a Jones Act Attorney

It is immediately time to contact a Maritime or Jones Act Attorney. A regular personal injury attorney may have trouble navigating a case such as yours. So it's best to go with an experienced firm which understands maritime law. The Moschetta Law Firm, in Washington, Pennsylvania, has years of experience trying and winning cases of personal injury in the maritime industry. We are attorneys who know maritime and admiralty law like the backs of our hands. We will guide you throughout the rest of your case.

Once you've gotten your statement down on paper, contact the Moschetta Law Firm for a **FREE** consultation.

Frequently Asked Questions



What Do You Need to Win Your Case?

Along with your statement about the incident, you will need some more documentation. Here's what you will need:

- Your Accident Report
- Medic and Doctors' and Hospitals' Reports
- Any Recorded Witness Statements
- Any Written Witness Statements
- Emails & Text Messages Referring to Your Case
- Vessel Logs & IADC Reports
- Investigative Reports
- and Any Root Cause Analysis Reports



Can You Select Your Own Doctor?

Absolutely! And a good thing, too, as the company's chosen doctor may or may not have your personal best interests in mind. Remember – the company wants to win, too. But you can't both win.

And one of your basic rights is to see your own doctor. However, you are under an obligation to see the company doctor on at least one occasion.

Furthermore, it is **always** a really good idea to get a second opinion from your own doctor. And, did you know that you do not need a recorded statement in order to get your approved medical treatment?

Plus – **and this is really important** – do not use your own health insurance right away.

When Should You Go Back to Work?

First of all, before you even think about going back, you will need to file a claim for your lost wages. Understand that it should be based upon what you were making when injured compared to what you have or had the potential to make after being injured.

Furthermore, do not go back to work until you have fully recovered. Why not? Because if you end up returning to work before you are truly capable of doing so, you might suffer an additional injury, or you could aggravate the one you have already got. Or your company might even try to release you. The company could try to say that you had fully recovered, and they might even try to defend their decision to release you from employment by saying that it was for some other reason.

So make sure you are at 100% before you go back to work, if you can.



How Do You File Your Personal Injury Claim?

This is the part where your Jones Act Attorney steps in and really earns his or her stripes.

The truth is that most cases do not go to court, not even maritime law matters. Often, personal injury claims end up settling out of court. According to a [2004 United States Department of Justice study](#) of state courts in America's 75 largest counties, about 97% of all cases settle or are dismissed without a trial.

So when you talk to your own lawyer, he or she will ask you a number of questions designed to highlight your claims help to make your case for negligence. Of course it goes without saying that you must answer all such questions truthfully. And, at your deposition, the company's lawyer will also ask you questions. Again, the truth is an absolute must – and your attorney will be with you and will work to protect you from any questions designed to harm your case or your character.

Plus you have got to make sure you attend every single medical appointment your doctor says you need. And you must get every medical test possible in order to assure your injury is not more complex. This also helps to provide incontrovertible proof of your injury.



What Are the Types of Maritime Laws?

Usually, an employee injured at work is entitled to maintenance and cure benefits. These benefits are available to every worker in the maritime industry, and the circumstances surrounding the injury don't matter. These benefits include medical expenses and daily living expenses. Recognize that the definition of 'daily living expenses' only includes the basics of daily living - rent/mortgage, food, and utilities. It's not your actual daily living expenses, which can be things like vehicular expenses, Internet, and other items that insurers don't see as being necessary living expenses.

The Jones Act

The Jones Act is "federal legislation that protects American workers injured at sea." It allows seaman and maritime workers, who meet the requirements of the law, who are injured or sick on the job to get compensation from their employers. However, the employee must prove that negligence on the behalf of the employer or another employee led to his or her injury, to collect this compensation.

Longshore & Harbor Worker's Compensation Act (LHWCA)

This act typically covers vessel workers hurt while repairing, loading, unloading, or building a vessel. This covers injuries happening on wharfs, piers, docks, marine ways, and shipping terminals. The federal statute provides these injured workers with medical and compensation benefits.



Injured workers can collect 66% of their weekly wages during their recovery time. And for a more debilitating injury – amputated limb due to a snapped line or an injury that leads to a permanent disability – the worker can get further compensation than for a less severe injury. Furthermore, if a worker dies due to a work-related injury covered under the LHWCA, their family (spouse) can get 50% of the deceased's weekly income.

Defense Base Act

As an extension of the LHWCA, the Defense Base Act protects civilian employees working outside of the United States on a United States military base or on a job at another location and under contract with the U.S. government, public works, or for national defense. The law requires employers to provide workers' compensation for their employees – just like maritime employers must provide to their employees under the LHWCA.



The Upshot

So if you have been injured while on the job, and it was on a vessel or on the docks while you were working on a vessel, or in the capacity of a civilian employee working for the U.S. government on a base or a job site, then you owe it to yourself and your family to call the Moschetta Law Firm, in Washington, Pennsylvania, and explore your rights.

