



TUESDAY 23rd APRIL 2013 – MORNING

LEGAL PRINCIPLES IN SHIPPING BUSINESS

Time Allowed – Three Hours

Answer any FIVE questions – all questions carry equal marks

Please read the questions carefully before answering

1. Discuss the various ways in which a person describing himself as an agent may be held personally liable for a contract into which he has entered.
2. At Common Law there is an implied absolute obligation on the shipowner to provide a seaworthy ship. Where the Hague-Visby Rules apply, it is the duty of the shipowner/carrier to exercise due diligence to make the ship seaworthy.

Discuss to what extent these two terms could be contractually excluded.

3. X Ltd. chartered their vessel **Grim Reality** to Y Ltd. for 12 months on a standard NYPE form. The charter party provides, among other things, that payment of hire is to be made in cash, without discount every 30 days in advance, and in default of payment the shipowners (X Ltd.) have the right to withdraw the vessel from the charterer's (Y Ltd.) service.

The 'Off-hire' clause also provides, among other things, that the ship would be off-hire in relation to: '... loss of time from default and/or deficiency of men, ... fire, breakdown or damages to hull, machinery or equipment, grounding, or by any other cause preventing the full working of the vessel...'

Critically discuss the issues arising in each of the following situations, clearly indicating the potential rights and liabilities of the parties by the use of case examples:

- (a) A payment arrived at the owners' bank two days later than agreed. The charterers claim that this was because the payment day was a bank holiday at the shipowner's bank.
 - (b) A payment was 5% less (under payment) than the agreed hire, but was made to the owners' account five days earlier than agreed.
 - (c) Whilst the ship was sailing laden off the West coast of Africa, she was seized by pirates, and was released two months later. During the period of capture, charterers did not pay any contractual hire.
4. Does vicarious liability transfer liability from the tortfeasor? Discuss, using your own examples.

Please turn over

5. Answer **both** of the following:

- (a) Explain the use of the **anti-technicality clause** in time charter parties.
- (b) Explain the term 'once on demurrage, always on demurrage' as compared to laytime.

6. Fully explain what you understand by **all** of the following:

- (a) Advance freight
- (b) Pro-rata freight
- (c) Lumpsum freight
- (d) Deadfreight

7. X Shipping Ltd. charter their vessel to Y Chartering Ltd. The vessel is to load 20,000 tons of steel plates from Piraeus, Greece and to proceed to the U.S. East coast where the cargo will be discharged. She arrives at the loading port and her Master tenders a notice of readiness. A few hours later the vessel berths and it is found that her cargo holds need cleaning before loading can commence.

The vessel eventually loads 18,000 tons of steel plates and sails for the U.S., the Master having signed a clean bill of lading. The bill of lading was backdated to the day the vessel berthed at the request of the shipper who offered a letter of indemnity to the shipowner.

The vessel proceeds to Bilbao, in Spain, where she loads more cargo and takes on bunkers.

On arrival at the port nominated by the charterer in the East U.S., the hatches are opened to commence discharge but it becomes apparent that the steel was over-stowed by some vehicles loaded in Bilbao. This does not allow Y to have access to the steel, and a delay occurs as a result of removing the vehicles.

Identify and critically discuss the legal issues arising from this scenario from the point of view of the shipowner and the charterer.

8. Explain the advantages associated with arbitration outside the Court system. Why would a party not wish to resolve a dispute through arbitration?