

# Claims Review

Celebrating 100 years of expertise and support



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## Welcome to the 53rd edition of the Claims Review

This year, ITIC proudly marked its 100-year anniversary with a celebratory event held at Christ Church Spitalfields. The venue was filled to capacity with members, insurance brokers, and industry contacts, all gathered to commemorate a century of service and success. The celebration coincided with the September meeting of the ITIC board of directors, which also took place in London.

ITIC continues to be in excellent health, financially strong and maintaining its position as the leader in its field.

ITIC would like to extend thanks to those of you who continue to submit questions for the “ask the editor” feature. This has been rebranded to “ask the legal team” for the Claims Review, so now the whole legal team can share their expertise and respond to your queries. Please send any questions that you may have to [askeditorCR@thomasmiller.com](mailto:askeditorCR@thomasmiller.com).

As always, this edition of the Claims Review provides a selection of marine cases recently handled by ITIC. We hope that these case stories will be of interest to you and will also help you to identify potential problems in order to avoid these types of situations occurring in your businesses.



## Dire straits

**A commercial manager recently submitted a claim to ITIC after a routing oversight led to a significant financial loss on a coal voyage from Australia to Brazil.**

The chartering manager fixed a voyage charter, calculating freight based on the ship transiting via Cape Horn, the shortest route. This assumption was based on prior experience with similar ships, most of which had no restrictions on Cape Horn transits. However, the time charter for the ship included a specific clause that only permitted Cape Horn or Magellan Strait transits between October and March. The planned voyage was scheduled for May/June, outside the permitted window.

The mistake was discovered shortly after subs were lifted. The manager immediately contacted the owners to request an exception for a Cape Horn or Magellan Strait routing. However, the owners declined due to safety concerns during the southern hemisphere winter.

With no alternative, the ship was compelled to avoid the Cape Horn and Magellan Straits, resulting in a longer voyage and increased costs. The additional distance led to a combined loss of US\$100,000 in extra hire and bunker consumption.



**It is important to review all charterparty clauses, especially where the charterparty is based on a previous one which may have irrelevant or different wordings that do not fit the proposed new charter. Assumptions can be costly if not verified. Ensure that routing permissions are explicitly confirmed, particularly when dealing with seasonal or geographically sensitive passages.**



## Shifting the blame

**A ship agent was requested to assist a ship in a scheduled discharge of cargo during a routine port call. In preparation, they provided the owners with a pro forma disbursement account (PDA), which included an estimate for stevedore costs based on two shifts of discharge. The PDA also clearly outlined the applicable stevedore rates, including the higher weekend charges; 150% surcharge for Saturday and 200% for Sundays and bank holidays.**

The ship arrived on a Thursday but was unable to berth until Friday. Discharge commenced that day but was soon delayed due to an operational issue. As a result, the operation extended into Saturday and resumed again on Monday, concluding that evening. In total, four shifts were required, one of which took place on Saturday.

When the final disbursement account (FDA) was issued, the owners refused to pay the Saturday stevedore charge.

Their argument was that the agent should not have arranged discharge on a Saturday due to the increased cost, and that the operation should have been postponed until Monday. However, while they disputed the 150% surcharge, they withheld the entire cost for that shift.

ITIC intervened to clarify that the only amount in dispute was the surcharge, not the base cost of the shift, which would have been incurred regardless of the day. Furthermore, ITIC supported the agent by pointing out that the discharge operation had been carried out with the full knowledge and authorisation of the Master, acting on behalf of the owners. At no point had the agent been instructed to avoid weekend operations. In the absence of such instructions, and in line with standard practice, the agents arranged for discharge to proceed promptly. Delaying the operation would have risked losing the berth to another ship, potentially causing further complications and costs.

**Ultimately, the owner agreed to pay the costs.**

## Container problem contained



**A liner agent acted for two different operators (A and B). They were instructed by operator A to arrange the movement of 20 of their empty containers from the storage facility to be loaded onto a ship for a ballast voyage. The plan was simple: the containers would be shipped empty to a second port, where they would be stuffed with cargo and continue their journey.**

However, a clerical error in the agent's system led to a mix-up. Instead of selecting the containers belonging to operator A, the agent mistakenly inputted containers belonging to operator B. The ship departed with the wrong containers on board.

The mistake only became apparent upon arrival at the destination port. The containers from operator B were 40ft units, whereas the intended containers of operator A were 60ft. The cargo scheduled

for loading could not fit into the smaller containers, and the operation came to a halt. Recognising the urgency and potential cost implications, the agent quickly arranged for the return of the incorrect containers to the original port, minimising storage and disruption costs.

Despite the swift response, the error resulted in financial losses. The cargo could not be loaded or delivered on time, and both operators A and B suffered operational setbacks due to the incorrect use of their respective equipment. The agent faced claims totalling €35,000 from the affected parties. After settling the claims, ITIC reimbursed the agent in full.

This claim highlights the importance of precision in operational data entry, especially when working with multiple principals. A simple input error can lead to significant logistical and financial consequences. Ship agents should implement robust verification procedures when handling container movements and ensure that system entries are cross-checked against instructions. When mistakes do occur, prompt action and transparent communication can help mitigate losses but prevention through diligence remains the best strategy.







## Approximate cause

**A charterparty stated that "charterers shall give owners approximate 20/15/10/7/5/3 days' notice including intended re-delivery port, thereafter 2/1 day(s) definite notice..."**

Charterers duly sent the broker a 20-day approximate redelivery notice. However, due to an oversight, the broker failed to forward this notice to owners. When charterers later sent a 15-day approximate notice, the broker did forward it, but the owners rejected it on the grounds that the initial 20-day notice had not been received.

Upon realising the error, the broker attempted to rectify the situation by asking owners to accept the original 20-day notice retrospectively. The owners refused. Without informing charterers of the issue, the broker then independently issued a new 20-day redelivery notice to owners, stating a later redelivery date.

Subsequent notices from charterers still indicated an earlier redelivery date, which the broker passed on to owners. However, owners rejected these notices, arguing they conflicted with the 20-day notice they had received from the broker.

The ship was ultimately redelivered on the earlier date, as per the charterers' final notices. Nevertheless, owners claimed hire up to the later date stated in the broker's replacement notice and withheld the overpaid hire, amounting to approximately US\$200,000.

Charterers refused to pay the difference and held the broker responsible, citing the failure to forward the original notice and the confusion caused by the broker's unilateral issuance of a new one.

Extended discussions followed, during which ITIC supported the broker. The defence focused on several key points: that the redelivery notices were approximate by nature; that owners could not reasonably rely on a single notice while disregarding subsequent updates; that the Master had provided an inaccurate ETA, which affected the redelivery timeline; and that owners had not demonstrated that they could have secured alternative employment for the ship during the disputed period.

Ultimately, the matter was settled at approximately US\$50,000, significantly less than the original claim. ITIC covered the claim in full.



**This claim highlights the critical importance of timely and accurate communication, especially when handling contractual notices. Brokers must ensure that all notices are promptly and correctly passed between parties, and avoid taking unilateral action that could misrepresent either side's intentions. Transparency, diligence, and clear documentation are essential to maintaining trust and avoiding costly disputes. When errors do occur, early disclosure and collaborative resolution can help mitigate financial exposure and preserve relationships.**







## Fishing for answers: When a faulty survey nets a claim

**A marine surveyor was engaged by the buyer of a tuna fishing ship to survey the ship to confirm that it met the standards of the relevant maritime safety authority.**

The surveyor relied on information provided by a sub-contracted naval architect to calculate the ship's freeboard.

The information that the surveyor relied on was incorrect, meaning that the surveyor incorrectly stated the freeboard and in turn this showed the ship to have a heavier lightweight than a previous survey had indicated.

The surveyor, not realising that the freeboard measurement was an error, advised the buyer that the ship's current stability book (which stated the lower lightweight) was incorrect and as such the ship would have to be re-surveyed before going into service.

In fact, there was no issue with the stability book and the surveyor, had they been relying on correct freeboard measurements, would have been able to issue a "clean" survey report, without the need for a new survey.

The buyer brought a claim for the costs of the second survey, as well as alleged losses they had suffered through not having been able to put the ship into employment for three fishing trips. The survey costs were straightforward, however in respect of the "loss of income" claim, ITIC had to consider:

- Whether there was sufficient evidence of the lost income;
- Whether the surveyor had a legal liability for these indirect losses.

Unfortunately, the naval architect (who had made the error) was an individual with no insurance of their own. There was no contract in place between the naval architect and the surveyor and it was felt that there was little chance of obtaining a contribution towards the claim from them.

The buyer was able to provide evidence of net income earned from the following three fishing trips after the ship went into service. This provided an indication of what income might have been earned had it not been for the "missed" trips.

In terms of the surveyor's liability for loss of profit, if those losses would have been reasonably contemplated by the parties at the time the contract was entered into, then the surveyor may have been liable for them. There was a risk that a court would find liability on the surveyor's part, and on this basis the claim was settled for US\$70,000.



**It is common for standard trading conditions to exclude liability for consequential losses as opposed to direct losses – consequential or indirect losses usually being loss of profits. Unfortunately, in this case, the surveyor did not operate under any such conditions.**

**ITIC has recently updated its recommended standard trading conditions for surveyors and consultants and is happy to advise members of how to incorporate these into their business dealings.**



## Interview with Mark Brattman Claims Director

### 1. If your job were a piece of art, which one would it be?

I think it would be "The Thinker". Not because I look like the statue, or because that statue was supposed to be part of a larger work called the "The Gates of Hell", but because the role of a Claims Director calls for a lot of thinking. Is a claim covered? Was the member performing the insured service? Has the member done something wrong? If so, have they caused a loss? Are there any applicable exclusions? Are there any defences available? What are the commercial realities of the situation? These are the questions that run through my head, and that's just when I open the file.

### 2. How are unusual, or particularly complex, claims handled?

They are not really handled any differently. We go through the same process whether they are simple or complicated. The main difference is that we may need more support from external lawyers or experts to form a position on the claim.

### 3. What are your hobbies and favourite past times?


I used to play the guitar very badly. Now I don't play at all. I have recently taken up badminton in an effort to get fitter. Although now both my arm and knee hurt all the time so I'm not really sure it's having the desired effect. More generally I like to spend time with family and friends – and enjoy eating out when I can. Of course, I also follow football (or soccer) and support Tottenham Hotspur for my sins. It was great to finally win something last season (the Europa League).

### 4. Can you share an interesting fact about yourself that your colleagues don't know?


I'm pretty open so they probably know most things about me. However, some of my younger colleagues may not know that I ran a comedy club in London (whilst a trainee lawyer) for a few years. It was great fun but I gave it up when I bought my first apartment as it was too far out of London to get home late at night. I'd often go to the "artists club" after the event until 1am or 2am. There was no night tube or very late trains then.

### 5. What is one piece of advice that you would give to someone hoping to work in the insurance industry?

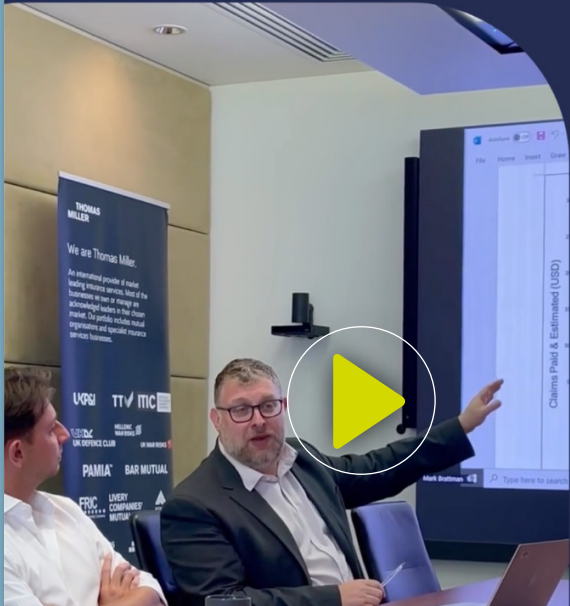
Go for it. It's an interesting area and it requires multiple skills. I have always been on the claims side. That involves a lot of reading, from documents to policies, contracts and more. So if that interests you, claims would be good. However, if you prefer numbers, underwriting may be your calling!




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Interview with Mark Brattman


### 6. If you could write a message to the Claims Director of 2125, what would it say?

Have you closed the claims in India and Pakistan yet? I recently received an email from a broker in Pakistan regarding a claim stemming from an incident in 1976. I asked if it was a mistake. It wasn't. The court had just decided that our member had won. But sadly it was to be appealed which may take another 50 years. The original claim was worth a few thousand dollars but with interest it was now in the millions. There was also a problem with cover; ITIC didn't exist until 1992 so this claim couldn't be covered by us.

→ [Read Mark's full interview on ITIC's website](#)



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ARTICLE 8 ↓

## Clause and effect

**A naval architect was contracted to design a small mooring system for a nearby marina. The project was completed and the mooring installed, but during a period of strong tidal flow, the mooring failed. It snapped and drifted, colliding with several nearby ships causing damage. A claim was subsequently brought against the naval architect for over US\$80,000.**

ITIC appointed local lawyers to assist in the defence. During the review, it was confirmed that the naval architect had required their client to sign a set of terms and conditions before any work commenced. These terms proved critical to the outcome of the case.

One clause stated that the architect's liability would be discharged after 12 months. The mooring had been designed in 2016 and

the claim was brought in 2023, well outside the liability window. Another clause excluded responsibility for loss or damage to equipment or items placed with the mooring system.

Based on these contractual protections, ITIC successfully argued that the naval architect bore no liability for the incident. The claim was dismissed, and only a small legal fee was incurred in the process which ITIC covered.

**Naval architects should ensure that they operate under robust terms and conditions. Clearly defined liability limits and exclusions can be instrumental in protecting professionals from long-tail claims and unforeseen liabilities.**

## Claim compromised after crew fatality

ARTICLE 9 ↓

**A P&I correspondent, was appointed by a P&I Club to manage a sensitive crew claim following the death of a seafarer onboard. The correspondent was tasked with liaising with the family of the deceased to facilitate the settlement of compensation from the P&I Club.**

During the process, a third party intercepted email communications and impersonated multiple individuals, including the family. Using fraudulent email accounts and fabricated documentation, the fraudster provided false bank details and settlement authorities. Unaware of the deception, the correspondent proceeded with the settlement, transferring the funds to the fraudulent account.

The fraud only came to light when the actual family contacted the correspondent, questioning why they had not received the agreed compensation. By then, the funds, US\$200,000, had been transferred and the fraudster had disappeared.

The correspondent immediately notified the P&I Club, which advised them to appoint legal counsel to assist with finalising the settlement and verifying payment to the rightful recipients. The member paid the full settlement amount from their own funds and covered additional legal costs to ensure the family received what they were owed.

Fortunately, the correspondent was covered with ITIC for negligence – the negligence being their failure to spot the fraudulent emails and/or to check the new bank details. ITIC reimbursed the correspondent for the net amount of the loss.



**When managing settlements (or any payments), it is essential to verify identities and payment instructions through secure, multi-channel communication. ITIC strongly encourages members to implement robust fraud prevention protocols, including checking bank details via a publicly available telephone number i.e. from a website, not one contained within the emails (as that could be fake) and to have strong internal control systems. You can find more [fraud prevention advice](#) on the ITIC website.**



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## ARTICLE 10 ↓

# Funds funnelled away by fraudster

A yacht broker had successfully arranged a charter and received bank details from the owner for the payment of hire. Everything appeared to be in order, until the owner suddenly claimed to be travelling and requested that the funds be sent to a different bank account in another country.

Unaware that this was part of a fraud, the broker transferred €90,000 of the charter hire they had received from the charterer to the new account. Shortly after, an email arrived, sent from the same address that had provided both the correct and fraudulent bank details, warning that the account had been hacked and advising not to proceed with any payments. However by then, the funds had already been sent.

The broker immediately contacted the bank, which began efforts to block the transaction. Meanwhile, to ensure the charter could still go ahead and protect their principal's interests, the broker gave up €40,000 in commission and paid €10,000 from their own funds to keep the deal alive.

ITIC responded quickly, offering a practical and supportive solution. ITIC agreed to front the remaining charter deposit while the situation was investigated, ensuring the principal could proceed with the charter without delay.

Fortunately, over the weekend, the bank successfully blocked the fraudulent payment, and all the funds were returned to the yacht broker, which is a rare occurrence.



It is important to verify bank details through secure channels, especially when changes are requested unexpectedly. Email fraud continues to pose a serious risk in high-value transactions. ITIC encourages members to implement strict verification protocols and to reach out for support at the first sign of irregularity. You can find more [fraud prevention advice](#) on the ITIC website.

## ARTICLE 11 ↓

# Ask the legal team

I've been asked to back-date a bill of lading with a different date of shipment, **what should I do?**

Being asked to backdate a bill of lading by altering the shipment date to reflect an earlier time than when the cargo was actually loaded, is a serious red flag in maritime operations. While such requests may be framed as routine or necessary to meet contractual deadlines, they carry significant legal risks. A bill of lading is a legal document that represents the actual condition and timing of the cargo shipment. Misrepresenting this information can amount to fraud, potentially exposing the issuer to criminal liability, civil claims, and loss of insurance coverage.

Even if a letter of indemnity (LOI) is offered to justify the backdating, it does not shield you from third-party claims or regulatory scrutiny.

Most P&I Clubs and insurers explicitly warn against issuing inaccurate bills of lading, as doing so may prejudice your insurance coverage. The safest and most professional course of action is to refuse the request, escalate the issue internally, and ensure all documentation reflects the true facts of the shipment.

Ultimately, you should remember that you are the agent and must seek instructions from your principal. You should not make any decisions regarding bills of lading yourself. ITIC has a dedicated e-learning seminar on bills of lading which you can access [here](#).

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