DK&S
DEUTSCH, KERRIGAN & STILES

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Location
New Orleans, LA

Practice Areas
- Appellate
- Commercial Litigation
- Energy
- Insurance Coverage
- Maritime
- Oil & Gas/Mineral Rights
- Professional Liability
- Toxic Tort & Environmental
- Transportation

Jurisdictions
- Louisiana

Frank Barry has litigated admiralty and maritime claims for over 30 years. He has extensive experience in the field of marine insurance, handling maritime insurance coverage questions regarding hull and machinery, protection and indemnity, comprehensive general liability, equipment floater, cargo, general average, salvage insurances, and other energy insurance coverages.

He has also handled numerous matters for the energy industry, including handling seminal Louisiana cases on gas balancing and preferential rights in mineral law. *See Fina Oil & Chemical Co. v. Amoco Production Co.*, 673 So.2d 668 (La.App. 1 Cir. 5/10/96); and *Amoco Production Company v. Fina Oil & Chemical Company*, 670 So.2d 502 (La.App. 1 Cir. 2/23/96); *see also Brooks Well Serv. v. Cudd Pressure Control*, 850 So.2d 1027 (La.App. 2 Cir. 2003); *see also Tubos De Acero De Mexico v. American Intern. Inv., 292 F.3d 471 (5th Cir. 2002)*.

Mr. Barry has handled significant cargo damage and other maritime property damage litigation matters, including collisions, allisions, sinkings, strandings, limitation of liability proceedings, and all types of maritime liens. He has also regularly provided counseling on maritime contracts, such as charter parties, bills of lading, contracts of affreightment, and other transportation issues.

Mr. Barry has also litigated complex marine insurance and reinsurance placement disputes involving the London markets. He has defended marine insurance brokers' claims and has litigated general average claims for cargo's, as well as for owner's, interests. In addition, he has litigation experience in the areas of banker's D & O liability and fidelity, commercial litigation, attorneys E & O, environmental litigation and mineral interest litigation, including gas balancing contracts and preferential purchase options under the Louisiana Mineral Code.

Mr. Barry has handled large loss fire litigation on both the admiralty side (e.g., New Orleans Chalmette Marina Fire for INA, a Cunard reefer ship fire for Castle & Cooke, a products liability claim in the S/S STONEWALL JACKSON fire) and on the non-maritime side (Orange Street Wharf Fire for CIGNA of Europe, S.A./N.V.).

Mr. Barry is a Proctor in Admiralty of the Maritime Law Association of the United States, a member of the Southeastern Admiralty Law Institute, and a member of the Planning and Program Committees of the Admiralty Law Institute, New Orleans. He is currently Chairman of the Program Committee of the Admiralty Law Institute. He has spoken at The Tulane Admiralty Law Institute, the Greater New Orleans Barge Fleeting Association Seminar, the Recovery Forum, OMSA, and before the Marine Claim Managers Group.

Professional Activities and Honors
"The Best Lawyers in America" List, 2009-2012
"Louisiana Super Lawyers" List, 2007, 2010, 2011, 2012
Federal Bar Association
Louisiana State Bar Association
New Orleans Bar Association

Louisiana Association of Defense Counsel
Defense Research Institute
Maritime Law Association of the U.S.
-- Proctor in Admiralty
Southeastern Admiralty Law Institute
Association of Average Adjusters, London
-- Annual Subscriber
Admiralty Law Institute
-- Program, Planning Committees
Association of Average Adjusters of the U.S.

Education
J.D., Tulane University, 1973
B.A., Tulane University, 1970

Representative Works

Hurricane Katrina Levee Breach - Appeal

On April 30, 2009, the United States Court of Appeals for the Fifth Circuit affirmed the dismissal of all claims against a defendant contractor Boh Bros Construction Co., and several engineering defendants including Modjeski and Masters, Inc. and Burk-Kleinpeter, Inc., in the Hurricane Katrina levee breach consolidated litigation in federal court in New Orleans. Over 300,000 claims, asserting $400 billion in damages, were filed against the U.S. Army Corps of Engineers, the Orleans Levee District, and several contractors and engineering firms which were engaged in various projects in the outfall drainage canals in New Orleans before the August 2005 hurricane. The Court of Appeals affirmed the trial court's decision that the Louisiana peremption statutes pertaining to engineers and contractors applied as a bar to the claims and that admiralty jurisdiction and federal maritime law did not apply. Charles F. Seemann, Jr., Francis J. Barry, Jr. and Terrence L. Brennan of Deutsch, Kerrigan & Stiles represented Burk-Kleinpeter, Modjeski, and Boh Bros., respectively. *In Re: Katrina Canal Breaches Litigation*, U.S. 5th Circ. Appeal Nos. 07-30706, 07-30771, and 07-31141.

Hurricane Katrina Levee Breach

A joint motion for summary judgment filed by Deutsch, Kerrigan & Stiles' Charles F. Seemann on behalf of Burk Kleinpeter, Inc., Frank J. Barry and Victor E. Stilwell (1939-2006) on behalf of Modjeski and Masters, Inc., and by other counsel representing two other engineering firms involved in work supervised by the U.S. Army Corps of Engineers in the mammoth consolidated Hurricane Katrina levee breach litigation pending before Judge Stanwood Duval in the United States District Court for the Eastern District of Louisiana was GRANTED and certified under Rule 54(b). The judgment upholds and enforces the five year peremptive period of LaRS 9: 5607, dismissing the claims filed in fourteen class action suits against the clients of DK&S. The Court's opinion and judgment are Doc. Nos. 2148 and 2149 in the consolidated cases (CA# 05-4182).

Other Cases

Marquette Transportation Co. v. Louisiana Machinery Co., 367 F3d 398 (5th Cir. 2004) (engine room fire)

Watters et al vs Department of Social Services at al, 849 So.2d 724 (La. App. 4th Cir. 2003) (defending against class action bodily injury claims of "toxic mold" in high rise office building, and insurance coverage issues)

Steel Coils, Inc. vs. M/V Lake Marion, 2002 AMC 1680 (E.D. La. 2001) aff'd 331 F3d 422 (5th Cir. 2003) (charterer's legal liability)

Steel Coils, Inc. v. M/V Capt. Nicholas, et. al., 197 FSupp. 2d 560 (ED La. 2002) (defense of charterer's legal liability)

Tubos de Acero de Mexico, S.A. vs. American International Investment Corp., 292 F.3d 471 (5th Cir. 2002) (commercial litigation, Trade Secrets Act, Unfair Trade Practices Act, civil law resolutory condition)

In Re Iowa Fleeting Service, Inc., 211 FSupp. 2d 794 (MD La. 2002) (marine salvage claims)

Liverpool and London Steamship Protection and Indemnity Association, Ltd. vs. M/V Queen of Leman 296 F.3d 350 (5th Cir. 2002) (maritime liens)

Brooks Well Servicing, Inc. vs. Cudd Pressure Control, 850 So 2d 1027 (La. App. 2d Cir. 2003) and 796 So.2d 66 (La. App. 2d Cir. 2001) (on shore well blowout)

The Tokio Marine & Fire Ins. Co. Ltd v. M/V Flora, 1999 AMC 1569 (E.D.La 1999), aff'd 235 F3d 963 (5th Cir. 2000) (representing Mitsuibishi cargo interests on board M/T Formosa Six in collision)

Nissho Iwai Corp. v. M/V Joy Sea, 2002 AMC 1305 (E.D. La. 2002) 1999 WL 970335 (E.D.La 1999) (cargo claim forum selection and arbitration)

Dickson Marine, Inc. et al vs. Panalpina, Inc. et al, 961 F. Supp. 947 (EDLa. 1997), affirmed 179 F3d 331 (5th Cir. 1999) (defending claims against brokers/agents, repair companies for capsizing of oil and gas liftboat off African east coast, agency and jurisdictional issues)

Egorov, Puchinsky, Afanasiev & Juring, et al v. Terriberry, Carroll & Yancey, et al, 183 F3d 453 (5th Cir. 1999) (claims of interference with contract against vessel owner's maritime counsel)

American Marine Corp. vs. Barge American Gulf III, 1999 AMC 2596 (E.D. La. 1999) (exclusion of government survey report)

Williams v. Treasure Chest Casino, L.C.C., 1998 AMC 1300 (E.D.La 1998) (marine P&I coverage of sexual harassment claims)

Amoco Production Co. v. Fina Oil and Chemical Corp., 670 So.2d 502 (La. App. 1st Cir. 1996) (oil and gas balancing contract)

Kanematsu (USA) Inc. v. M/V Hua Guang, 1996 WL 764106, 1996 AMC 2845 (E.D. La 1996) (cargo damage)

In Re: Trygg Hansa Ins. Co. Ltd., 896 F. Supp. 624 (E.D. La 1995) (jurisdiction to take discovery for foreign court)

Cadawas v. Skibs Storli Bergin, 630 So.2d 289 (La. App. 5th Cir.1993) (product liability-jurisdiction)

In Re Waterman S.S. Corp. (M/V Stonewall Jackson), 1992 AMC 2658, 1992 AMC 2665 (E. D. La. 1992) (Limitation; Removal of DOHSA actions), 1993 AMC 1494, 1501 (E.D. La. 1992)

Deutsche Shell Tanker v. Placid Refining Co., 767 F.Supp. 762 (E.D. La 1991), 993 F.2d 466 (5th Cir.1993) (general average)

Albany Ins. Co. v. Anh Thi Kieu, 927 F.2d 882 (5th Cir. 1991) (marine hull insurance)

C. Itoh & Co. (USA) Inc. v. M/V Hans Leonhardt, 719 F. Supp. 479 (E.D. La 1989) (cargo damage)

Delta Commodities Inc. v. M/T Jo Oak, 1990 AMC 820 (E.D. La 1989) (allision with pier)

Hillman v. Marcello Ins. Agency, 1989 AMC 1365 (La. 17th JDC and 1st Cir. Ct. App. La. 1989) (marine hull insurance)

Reeled Tubing Inc. v. M/V Chad G, 794 F.2d 1026 (5th Cir. 1986) (cargo damage; pre-judgment interest)

Associated Dredging Co. v. Continental Marine Towing, 617 F. Supp. 961 (E.D. La 1985) (sinking)

Syndicate 420 at Lloyd's v. Glacier General Assurance Co., 604 F. Supp. 1443 (E.D. La 1985), 633 F. Supp. 428 (E.D. La 1986) (marine insurance)

State of Louisiana, ex rel. Guste v. M/V Testbank, 564 F. Supp. 729 and 524 F. Supp. 1170 (E.D. La 1983) (cargo claims in collision)

All Commodities Supplies Co. v. M/V Acritas, 702 F.2d 1260 (5th Cir. 1983) (cargo damage)

Candies Towing Co. v. M/V B&C Eserman, 673 F.2d 91 (5th Cir. 1982) (sinking)

Bank of New Orleans and Trust Co. v. O/S Tracy Marine, 455 F.Supp. 78 (W.D. La 1978) (maritime liens)

European - American Banking Corp. v. M/S Rosaria, 486 F. Supp. 245 (S.D. Miss. 1978) (maritime liens)

Alamo Chemical Transp. Co. v. M/V Overseas Valdez, 398 F. Supp. 1094 (E.D. La 1975) (collision)