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## General Average - A Legal Minefield

In the Australian case of *Offshore Marine Services Alliance Pty Ltd v Leighton Contractors Pty Ltd and Another - Federal Ct of Australia (McKerracher J)* [2017] FCA 333 - 30 March 2017, the concept of General Average Contribution came out clearly.

In this case the cargo was supplied by cargo contractors to the barge and the tow to complete the journey. However the cargo contractors had sold the cargo to the new buyers but some interests still remained in the cargo while the barge and the tug were completing its journey. However, during the voyage, the barge was grounded and general average was declared. The barge and tug Owner claimed general average contribution from the cargo contractors, who had by then sold the cargo, based on residual interests they still had in the cargo such as responsible for the care, custody, control, safekeeping and preservation of cargo.

It was held that the liability to contribute in general average attached only to the owner of the cargo that benefited from the general average, sacrifice and expense, or someone who was liable to contribute.

FDD department of ALCO advice to Andrew Liu's clients is as follows:

- (a) General Average is a legal minefield and clients are advised to consult their Club or claims and/or FDD department of ALCO immediately.
- (b) FDD office has resolved many casualty cases for its clients by travelling to the scene of the incident and saved millions of dollars for its clients. This facility is available exclusively to ALCO's clients' 24 hours x 7 days a week x 365 days a year and FDD personal can travel on short notice on behalf of the clients to resolve their cases. Many times what is required is genuine negotiation with other parties without involving external lawyers to expedite the resolution and preventing the matter to escalate. Recently big cases were solved in South Asia and another in Africa. The case handler regularly discuss with the client as to progress of the case and what should be expected and what should not be expected in the given circumstances. These reports are extremely important to take decision at the clients' end.

Source of Information: Andrew Liu & Co., Ltd [www.andrewliu.com.hk](http://www.andrewliu.com.hk)