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Allowing Parties to Investigate the Vessel? Is It possible?

In a new case, *Orient Overseas Container Line Ltd v ANL Singapore Pte Ltd and Others (The “APL England”)* – Federal Ct (Stewart J) [2020] FCA 921 – 30 June 2020, it was decided, that an interim order can be provided to the Claimant to seek documents from the vessel by allowing the marine surveyor on board when it was refused by the defendants.

This was an application by the Claimant for urgent interlocutory relief, inter alia, for orders that the Claimant’s nominated marine surveyor be given access to the vessel to investigate the circumstances of the loss, and that the defendants give all reasonable assistance to such surveyor, including the provision of information, documents, correspondence, emails and ship’s records (including computer records, logbooks and other records) and access to any part of the vessel and cargo reasonably requested.

The Court decided that the word ‘investigate’ is too broad, and also it was not justified to make an order requiring the defendants to give “all reasonable assistance” to the Claimant’s marine surveyor. In the circumstances, the court made a narrower order, namely that the defendants (being the parties in possession and control of the vessel) identify an appropriately knowledgeable person to accompany the surveyor on his inspection and identify at his request particular equipment or machinery.

FDD department of ALCO advice to Andrew Liu’s client is as follows:

- a) Parties to dispute should seek documents as soon as possible at the load or discharge port only and if required seek Court’s order and try to obtain orders as wide as possible
- b) FDD department of ALCO regularly assist the clients in seeking an appropriate order in similar cases and it work 24 x 7, 365 days a week. Many times, the Clubs’ case handlers are on holiday or their emergency contact is taking time, but FDD department of ALCO can be contacted anytime for assistance or appropriate case handler in Hong Kong/Shanghai office can be contacted and if required they will contact the FDD department.

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