

Insurance Day

Crew compensation concern for P&I clubs



SHIPPING crews seeking compensation for time spent as hostages following piracy hijackings are causing protection and indemnity (P&I) clubs concern.

Richard Hicks, chief-steward of the Maersk Alabama which was hijacked by pirates and rescued by the US Navy in April, has filed a lawsuit in Houston alleging that both Maersk Line Ltd and Waterman Steamship knowingly sent him into the Gulf of Aden without adequate protection.

Hicks is seeking at least \$75,000 in damages, and if he is successful the Maersk Alabama's P&I club – The Standard – could be left facing the claim.

The knock-on effects of this for could see other P&I clubs receiving a substantial volume of claims in the future.

Eighteen vessels carrying at least 280 seafarers are currently being held by pirates off the coast of Somalia. If each of these seafarers makes a claim, the P&I clubs could be faced with an avalanche of claims.

International Maritime Bureau figures show 42 vessels were captured by Somali pirates last year, with 27 hijackings so far this year, potentially exacerbating the situation for the P&I clubs should those seafarers captured in the past decide to make a claim as well.

As yet the P&I clubs have remained tight-lipped as to their intentions with regards to the lawsuit and its potential implications. There has been some speculation as to which element of marine insurance actually covers such claims, with some market insiders suggesting they are covered under war risk.

However, Martin Hubbard, a director at Lloyd's broker Tysers, suggested "such claims are covered by the clubs if the owner is found to be liable, which would be on the basis of failure to take reasonable steps to ensure safe passage".

Although Hubbard said the P&I clubs were not expecting a deluge of claims in other jurisdictions, he said: "The Maersk claim may be the impetus for more".

And Hubbard added: "The [P&I] Clubs were always fearful that an American vessel would get caught up in the Somali problems and that a claim [such as Hicks'] would be forthcoming in the US."

Standing in the way of success for Hicks is the possibility that both Maersk and Waterman Steamship will have already made provisions for their seafarers.

Paul Wood, director of marine at Tysers, said: "Most crew contracts will have provisions for owners and/or charterers to take the vessel into war listed areas."

He said crew members should be given information of the vessel's intended route and they have the right not to proceed and be repatriated at the shipowner's cost before rejoining the vessel at a later date. If the vessel does travel through a war listed area, the crew member is often entitled to a bonus as well as increased compensation benefits.

Wood noted with major shipping companies such as Maersk and Waterman involved, "you would expect these type of contract provisions to be in place which... would make this issue reasonably clear cut", although Hubbard warned such a provision "would not prevent a claim being brought [although] it might help stem a possible deluge of claims".