

DALI Drama: Baltimore Bridge To Nowhere

By JAMES E. MERCANTE

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It has been one year since the massive cargo ship DALI knocked down the Francis Scott Key Bridge in Maryland on March 26, 2024. It was shocking to see a shoreside video of the iconic bridge collapse like bowling pins with one solid strike.

On impact just after 1:00 a.m., six construction workers on the bridge went airborne into the river below to their deaths, two others were injured, one crewmember on the bow of the ship was injured from falling wreckage. The Port of Baltimore was shut down for months as salvage crews worked to remove the ship from the Patapsco River along with thousands of tons of bridge wreckage off the ship and out of the water.

The early conspiracy theory fuses have fizzled like duds, but litigation has exploded. Billions in claims have been filed against the ship owner Grace Ocean Private Limited and its management company Synergy Marine Pte, Ltd. in United States District Court of Maryland, Northern Division. The court's docket alone in just one-year totals 162 pages with 493 entries.

SHIP FIRES FIRST-TO LIMIT LIABILITY

The first litigation shot was fired within one week of the casualty (April 1) but not by a claimant. Rather, the ship owners and managers (Petitioners) filed a federal admiralty limitation of liability action pursuant to 46 USC §30501, *et seq*,



Credit: NTSBgov via Wikimedia Commons

in the district of Maryland seeking exoneration from liability or to limit liability to the ship's post-casualty value alleged to total less than \$44 million (known in admiralty as the "limitation fund"). FRCP *Rule F*, Supplemental Rules for Admiralty or Maritime claims.

This valuation is being disputed by claimants. The claimants' mission will be to defeat the limitation action as the replacement of the Key Bridge alone is estimated to cost over \$1.0 billion. A limitation action was not unexpected.

This is standard procedure in any marine casualty, no matter the size of vessel or nature of the incident. Soon after the ship owner filed its limitation action, Senior District Judge James K. Bredar, with substantial admiralty case experience, took charge of the litigation.

A limitation action serves to streamline the litigation because settlements will follow if the court determines Petitioners are entitled to limit their liability to the less than alleged \$44 million ship value. Petitioners in admiralty often settle claims outside of the limitation action.

This does not impact the limitation fund which remains available to other claimants still in the litigation. Indeed, the vessel owner already settled the federal government's claim for wreck removal and response costs for \$100 million in October 2024. The settlement also extinguished the government's claim for punitive damages.

The filing of the limitation action also prompted a California congressman to introduce an Amendment to the Limitation Act on Aug. 13, 2024 (H.R. 9348) to make the limitation 'ten times' the value of the ship and to apply retroactive to the casualty date. That proposal, named the *Justice for Victims of Foreign Vessel Accidents Act*, has picked up little to no steam in congress.

CLAIMS AND DEFENSES-FULL SPEED AHEAD

Nearly every claim imaginable in maritime law is evident. The claims include rebuilding the bridge, hull and machinery loss to the ship, wreck removal, salvage, cargo loss and damage, shipping container damage claims, pollution cleanup, vessel charter party disputes in the UK, ship owner's admiralty claim in New York for a "general average" contribution from cargo interests, personal injury, wrongful death, and an FBI investigation that may result in criminal charges under the Seaman's Manslaughter Statute.

The closure of the river and destruction of the bridge implicates a substantial business interruption claim by the Port of Baltimore and state of Maryland. Since 1927, business interruption losses are not recoverable in admiralty without proof of physical damage. *Robins Dry Dock & Repair Co. v. Flint*, 275 U.S. 303 (1927). Thus, while the bridge owner, state of Maryland, will have a viable business interruption claim, the hundreds of businesses that filed a class action lawsuit may not.

These claims face an uphill battle under the *Robins Dry Dock* rationale, but the class action claimants are attempting an end around the *Robins* damages restriction by relying upon certain exceptions to *Robins* that courts have recognized such as public nuisance, criminal, intentional or reckless acts.

However, under the court's multiple case management orders, none of the damages claims will see the light of day (or any dispositive motions to dismiss same) before the vessel owner's petition for exoneration from or limitation of liability is determined in the first instance.

This makes good procedural sense in handling a complex admiralty litigation. Thus, the scope of discovery is for the most part being bifurcated to obtain a ruling first on exoneration or limitation, and if neither succeed, to move into the numerous claims for damages and dispositive motions. Judge Bedard's rational is to resolve the limitation question first, and only then turn to the merits of the individual claims. *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438, 448 (2001); Case Management Order No. 3; Document 438; 11/07/24.

The judge noted that "even if certain claims were dismissed early in the life of this case, there would be no appreciable difference in the complexity of the Phase 1 trial, which would focus on the exact same issues regardless of which claimants participated". Citing *In re Oil Spill by the Oil Rig Deepwater Horizon*, 808 F. Supp.2d 943, 964-65 (E.D.La. 2011). The limitation action in Phase 1 will focus first on the DALI's seaworthiness and/or negligence which is claimants' burden to prove.

If claimants prove fault of the ship or its crew, the burden then shifts to petitioners (as the ship owners ashore) to prove that they were without privity or knowledge of the condition of the ship or onboard negligence that was responsible for the collision.

Other damage issues to be decided after phase I will likely include the defense of 'betterment' to the bridge as well as any deduction for

'depreciation'. Reduction in damages for 'betterment' or 'upgrades' to the newly constructed bridge is typically within the judge's discretion. Such evidence of upgrades could include a better reinforced bridge and pilings, adding more lanes and tolls, greater vehicle capacity, and higher elevation to accommodate larger ships.

Another issue on the radar will be the state of Maryland allegedly having ignored warnings as early as 1983 in a bridge study that the Key Bridge was in need of strengthening and protection in light of the larger and heavier ships calling on the port.

CAUSE AND EFFECT

The NTSB concluded that a primary electrical breaker that feeds most of the DALI's equipment and lighting tripped. This caused a complete blackout (loss of electrical power) and shut down the main propulsion diesel engine.

The NTSB also determined during its investigation that the ship had two power outages (complete blackouts) on March 25th, just 10 hours prior to its scheduled departure from Baltimore. Power was restored and the crew switched to a different breaker panel and transformer for departure on March 26th. See NTSB Reports on DALI crash, May 14, 2024; June 24, 2024.

No part of an NTSB's final accident report "may be submitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report". 49 USC §1154(b). The NTSB's investigatory procedures are not designed to facilitate litigation. See, James Mercante and Kristin Poling, *Soup to Nuts: Navigating Marine Casualty Investigations*, 43 Tulane Maritime Law Journal, p. 359. Similarly, coast guard reports are not admissible in civil action.

Interestingly, on March 18, 2025, the NTSB issued a report concluding that had the Maryland Transportation Authority (MDTA) "conducted a vulnerability assessment of the bridge based on

recent vessel traffic, as recommended by a 1991 and 2009 American Association of State Highway and Transportation Officials (AASHTO) *Guide Specifications*, the MDTA would have been aware that this bridge was well above the threshold of risk for catastrophic collapse from a vessel collision when the DALI collision occurred". It remains to be seen how this finding will impact litigation.

CREW DETAINED

The key deck and engine crew members of the DALI (mostly from India or Singapore) have been detained by the U.S. Department of Justice pending not only the FBI and DOJ criminal investigation but also until testimony in the multiple civil suits could be taken before the crew departs the jurisdiction.

The crew depositions are underway with ten or so crew depositions completed as of this writing, including the ship captain, deck officers, engineers and the independent Maryland State Pilot. For the Maryland State Pilot, this was a routine bridge transit; one likely that he had performed a thousand times with ships of all sizes.

The pilot's heroic actions including immediately radioing a mayday to alert local authorities, other marine traffic on VHF radio, and the bridge tender when the collision became inevitable, provided time for the bridge to be evacuated, thus saving lives.

A bench trial is set for June 1, 2026 to resolve the Phase 1 issues. By comparison, the 1989 EXXON VALDEZ grounding and oil spill in Prince William Sound, Alaska, took 20 years to reach finality. With Judge Bredar at the helm, this voyage should reach its destination much faster.

JAMES E. MERCANTE is a partner at Gallo Vitucci Klar LLP (in merger with his former firm Rubin, Fiorella, Friedman & Mercante LLP) and President of the Board of Commissioners of Pilots of the State of New York. **RICHARD GONZALEZ**, of counsel, assisted in the preparation of this article.