

# Maritime Litigation

Successful resolution of maritime disputes requires not just knowledge of the specific governing body of law, but also a deep understanding of the maritime industry. From Himalaya Clauses to bilge strainers, Cozen O'Connor's attorneys have detailed maritime knowledge born from decades of extensive experience working within the industry. We put this substantial experience to use helping both U.S. and non-U.S. maritime clients navigate complex disputes around the world.

Our maritime litigation attorneys regularly handle complex maritime litigation. We have appeared before state and federal courts, appellate courts, federal and state administrative agencies (such as the Federal Maritime Commission, U.S. Customs and Border Protection, Office of Foreign Asset Control and U.S. Maritime Administration), international and domestic arbitration panels, boards of contract appeals, Congress and international bodies. Cozen O'Connor has successfully prosecuted and defended arbitration proceedings in the United States and overseas.

We represent a diverse array of maritime clients, including the world's largest ocean carriers, port and terminal operators, P&I Clubs, chassis pools, classification societies, and Fortune 500 companies with bulk shipping capacity.

The firm assists maritime clients in all manner of marine casualty (e.g., collisions, allisions, groundings, container losses and sinkings), as well as loss of cargo and pollution claims. We handle commercial disputes arising from charter parties, construction and shipbuilding contracts, liner service agreements, terminal and equipment leases, and other agreements unique to the maritime industry. Our attorneys handle coverage disputes with regard to cargo, hull, and marine general liability insurance on behalf of marine insurers and insurance syndicates.

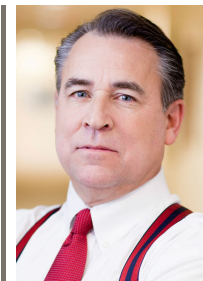
Cozen O'Connor regularly counsels clients in disputes to which the U.S. government is a party. We respond to major government investigations, administrative and criminal enforcement actions, appeals of agency decisions to the courts, and high-profile criminal and civil litigation. Cozen O'Connor defends or challenges government contract awards, protests deficiencies in solicitations, and handles disputes that arise during the execution of government contracts.

## Experience

Secured an important victory before the Federal Maritime Commission ("FMC") on behalf of Hyundai Merchant Marine ("HMM") in a case publicized in the New York Times alleging violations of the Shipping Act and breach of contract. Discovery revealed that not only had HMM acted in a reasonable manner and committed no violations of the Shipping Act, but that it had in fact granted very favorable terms to the complainant in the midst of the 2021-22 supply chain crisis. The judge cited this evidence three times in her decision denying all claims.

Obtained dismissal of a \$5 million suit filed against an oil refinery in the U.S. District Court for the District of the Virgin Islands, by a vessel owner which alleged that defective bunkers sold by the defendant caused catastrophic damage to the vessel's engines and a resultant loss of power and propulsion while the vessel was at sea.

Represented a Fortune 50 energy company in an arbitration before the Society of Maritime Arbitrators commenced by a claimant which had purchased six vessels from the respondent pursuant to a complex support agreement which guaranteed minimal freight rates to the claimant for a five-year period. Toward the end of the support agreement's term, claimant changed the manner in which support payments were calculated and sought additional retroactive payments of \$3.2 million from the respondent. Obtained an arbitration award which dismissed the \$3.2 million claim, and granted



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## Related Practice Areas

- Cruise Industry
- Intermodal & Logistics
- Maritime Antitrust & Competition
- Maritime Corporate & Finance
- Maritime Litigation
- Maritime Regulatory
- Trade Regulation, Export Controls & Sanctions
- Transportation & Trade

## Industry Sectors

- Maritime

recovery on the respondent's counterclaim plus attorneys' fees in the amount of \$606,000.

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Litigated and successfully resolved an \$80 million insurance coverage dispute arising out of the destruction of a marine terminal by Hurricane Wilma.

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Obtained dismissal of a suit filed against a French classification society by a charterer which claimed that negligent class inspections resulted in the sinking of the vessel transporting its cargo.

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Secured a favorable determination from U.S. Customs and Border Protection (CBP) on the return of a cash in-lieu-of bond deposit on behalf of a fishing company client, which had performed certain repairs to its fishing vessel at a Canadian shipyard. Upon return of the vessel to the United States, the client deposited cash in-lieu-of a bond with CBP in the event that ad valorem taxes were due on the value of the repairs. CBP's Vessel Repair Unit determined that no ad valorem taxes were due under the North American Free Trade Agreement, but declined to return the cash deposit, asserting that CBP has the authority to withhold deposits for up to five years for potential offenses under 19 U.S.C. § 1621 or up to six years for a breach of bond conditions under 28 U.S.C. § 2415. Successfully appealed to the CBP's Automotive and Aerospace Center of Excellence and Expertise, arguing that CBP's reliance on the cited statutory authorities was incorrect as a matter of law and the novel interpretation violated the Administrative Procedure Act, resulting in the client's deposit being returned in full.

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Won summary judgment resulting in the dismissal of an \$8 million claim against our clients, Hess Corporation ("Hess") and Hess Energy Marketing, LLC (*Summit Transport, Inc. v. Hess Energy Marketing, et al.*, 2019 WL 430863 (DNJ 2019)). The plaintiff was a New Jersey fuel oil delivery company which alleged that an oral joint venture existed between Hess and it which entitled the plaintiff to a portion of the proceeds when Hess sold its energy marketing business.

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Secured dismissal of multidistrict litigation centering on allegations that our ocean common carrier client, and several other defendants, fixed prices for transporting vehicles. In granting our motion, the court held that the federal Shipping Act precludes private federal antitrust lawsuits and preempts state law antitrust, consumer protection, and unjust enrichment claims centering on conduct prohibited by the Act. This decision was affirmed by the U.S. Court of Appeals for the Third Circuit.

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Secured dismissal of a complaint filed with the Federal Maritime Commission against our client, a leading ocean transportation and logistics company, by a trucking firm with which the client had terminated its business relationship. The complaint alleged violations of several provisions of the Shipping Act of 1984, and we moved to dismiss it for lack of jurisdiction and failure to state a claim on which relief could be granted. In its response, the complainant was forced to abandon a number of its Shipping Act claims as being devoid of merit, and the administrative law judge dismissed the remaining claims on both theories advanced in our motion.

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