

## Regulatory and Government Affairs

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### Maritime and Fisheries Law

#### Contact

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Garvey Schubert Barer is one of a handful of Northwest law firms that has a comprehensive maritime practice and also is a full-service firm. We can provide all the legal services our maritime, transport and fisheries clients need, such as

- ▶ Advising clients on day-to-day operations and regulatory compliance
- ▶ Planning and documenting acquisitions
- ▶ Assisting with vessel construction, vessel financings, charters and other commercial transactions
- ▶ Representing clients in vessel casualties, pollution incidents, cargo loss cases and personal injury cases
- ▶ Assisting clients in insurance coverage cases
- ▶ Resolving labor and employment disputes, including through litigation if necessary
- ▶ Negotiating collective bargaining agreements for shipowners
- ▶ Helping clients comply with fisheries regulations
- ▶ Collaborating on sustainability initiatives
- ▶ Using our involvement with maritime trade and bar associations to keep clients up-to-date on changing legal developments affecting their businesses
- ▶ Assisting clients with issues before the Coast Guard, Maritime Administration, Federal Maritime Commission, National Marine Fisheries Service and U.S. Customs and Border Protection
- ▶ Representing clients' interests before the U.S. Congress

#### Value to You of a Full-Service Law Firm

As a full-service firm, we have the resources and expertise to capably handle virtually every type of legal problem our maritime clients may face. These include immigration issues, technology transfers and succession planning (increasingly important as founders of maritime businesses reach retirement age).

Our clients include vessel owners and operators, international and domestic container shipping lines, tug and barge companies, fishing companies, a ferry line, terminal operators, luxury yacht owners, lenders, freight forwarders, shipyards and trade associations. We also are a correspondent for six P&I clubs.

Our lawyers are leaders in the legal profession and maritime and fisheries industry. They have served as directors or executive committee members of the American Waterways Operators, the Maritime Law Association of the United States and the Maritime Administration (MARAD). They have acted as maritime committee or subcommittee chairs of the American Bar Association and the Maritime Law Association of the United States. They speak frequently before maritime industry and bar association groups. One of our lawyers served as general counsel to the National Oceanographic and Atmospheric Administration. Another earned a mate's license in the U.S. Merchant Marine.

#### Worldwide Practice

For many years representing clients in the maritime, transport and fishing sectors has been a major practice area at Garvey Schubert Barer. We have clients on the East, West and Gulf Coasts of the United States as well as in other areas of the world. We have the ability to provide timely, cost-effective services to our maritime clients outside the Pacific Northwest.

#### Property Damage Litigation

We litigate disputes involving cargo damage, collision damage, pier collisions, wake damage, equipment damage and ship repair.

#### Personal Injury Litigation

We defend Jones Act and other crewmember injury claims, longshoremen's and passenger injury claims, and maritime product liability claims.

### **Specialized Admiralty Matters**

Our practice includes matters involving salvage, general average, marine insurance coverage, maritime liens, arrest and attachment of vessels, broker liability and preferred mortgage foreclosures.

### **Marine Pollution**

We respond to and defend vessel interests with regard to oil spills and other marine pollution casualties and litigation. We are regional oil-spill response counsel for an international P&I club. Our services include immediate response and investigation, assistance in spill cleanup management, and appointment and instruction of experts needed to protect clients' interests. We manage federal, state and third-party claims, including natural resource damage claims, and defend the claims in court. We also play a preventive role by helping maritime clients comply with federal and state regulations governing marine pollution. We have represented shipowners in the defense of criminal forfeiture and enforcement claims by the government for violation of environmental laws.

### **Maritime Business and Finance**

If you have a maritime, transport or fishing business, you likely will encounter the same types of transactions businesses in other sectors face. One difference, of course, is that your transactions involve vessels subject to the special provisions of maritime law. Drawing on decades of experience representing maritime clients in such transactions, our maritime and fisheries lawyers can help you plan, implement and maximize the value of these transactions.

### **Acquisitions**

We have represented both purchasers and sellers in numerous maritime and fishing industry acquisitions. These transactions have involved shipping, tug and barge, passenger vessel, fisheries and seafood companies as well as other maritime businesses. Some examples of our representation follow:

- ▶ Purchaser's counsel in acquisition of the largest tug and barge company in Hawaii
- ▶ Counsel to the acquirer in the purchase and financing of a factory trawler company
- ▶ Special maritime counsel to a private firm in a \$400 million acquisition and financing of a fleet of Alaska factory trawlers and their associated operations

Acquisitions sometimes involve foreign equity or loaned funds investing in U.S.-flag vessels or companies operating in the U.S. fisheries or coastwise trade. We advise clients how to comply with the complex rules regulating these transactions.

### **Maritime Contracts**

We advise clients about contracts, which can involve a wide variety of arrangements, including the following:

- ▶ Charterparties
- ▶ Preferential berthing agreements
- ▶ Stevedoring contracts
- ▶ Towage and cargo carriage agreements
- ▶ Ship sales contracts and ship management agreements
- ▶ Service contracts for ocean transportation and terminal leases

Our maritime and fisheries lawyers also advise clients about marine construction contracts. For example, we negotiated a \$300 million construction contract to build the first cargo vessel built in the United States since 1990.

Our services include negotiating dredging contracts, tug and barge transportation agreements and ocean cargo transportation contracts. We also counsel clients on the proper use of foreign vessels in U.S. domestic construction projects and when a party to a construction joint venture is not considered a U.S. citizen.

## **Financings**

Financings play a key role in the maritime arena. These transactions are highly complex and must be carefully negotiated, drafted and implemented. Our lawyers have worked on virtually every type of maritime, transportation and fisheries financing. For example, one of our lawyers was lead lender's counsel in an \$80 million multicurrency revolving line of credit secured by eight Liberian-flag bulk cargo vessels. Other types of financings we have handled include

- ▶ Ship mortgage and ship mortgage trust transactions in the cargo, passenger, fishing, and tug and tow trades
- ▶ Title XI ship financing transactions
- ▶ Marine equipment and inventory financing

Our financing clients have included domestic banks, commercial financing companies and U.S. and foreign-owned borrowers.

## **Tax and Regulatory Matters**

We advise clients on the cross-border income tax as well as the effect state and local taxes have on maritime transactions. We also advise clients on the rules of regulatory agencies that affect operators, investors and lenders. These agencies include the Coast Guard, Maritime Administration, National Marine Fisheries Service, Federal Maritime Commission, U.S. Customs and Border Protection, and U.S. Citizenship and Immigration Services.

## **Fishing Industry**

We have decades of experience assisting clients in all aspects of the fishing industry. In recent years several large fishing and seafood companies have changed hands as their owners retire. In addition to representing sellers and purchasers, we have been special maritime counsel in several acquisitions.

Equity ownership in the fishing industry is severely restricted. We are a leader in structuring the participation of foreign equity owners and lenders. We often have assisted fishing industry clients with their operating contracts, such as charters, tendering contracts, and fish brokerage and custom processing agreements.

We have represented both individual companies and regional and national trade associations before Regional Fishery Management Councils and the Department of Commerce in regulatory proceedings under the Magnuson-Stevens Fishery Conservation and Management Act. We provide advice to foreign governments and foreign trade associations on both legislative and regulatory developments, including developments affecting trade in fishery products.

We counsel fishery clients on matters relating to compliance with wildlife protection laws, such as the Endangered Species Act (ESA) and the Marine Mammal Protection Act, and we have represented industry groups in complex, high-profile ESA litigation relating to fishery management measures. We defend enforcement actions brought under a variety of resource management statutes, and we have handled numerous cases in federal courts involving challenges to the validity of fishery management regulations.

## **Luxury Yachts**

Our lawyers have assisted numerous clients with their construction, purchases, sales, charters, financings and documentation of luxury yachts, both in the United States and abroad.

## **Passenger Vessels**

Our lawyers have assisted clients with legal issues involved in the construction, financing, chartering and operation of passenger vessels of all sizes, including the acquisition of a small cruise line. While in private practice, one of our lawyers acted as general counsel to a passenger cruise line.

## **Maritime Labor and Employment**

Like other businesses, those in the maritime, transportation and fishery sectors want a satisfied and productive workforce. They want to spend less time and resources managing unproductive and disgruntled employees and more time and resources managing their business. To help clients achieve this objective, Garvey Schubert Barer has a broad labor and employment practice with substantial experience representing maritime employers. We help you avoid, or at least minimize, employment disputes that can

seriously disrupt your business and lead to costly litigation.

We understand the unique work environment maritime employers face and the many ways in which the maritime environment differs from the typical downtown office. We know how to meet the challenges of correctly interpreting and applying maritime law, the Americans with Disabilities Act, the Fair Labor Standards Act, ERISA, the Jones Act and state employment statutes.

Our services include advice on hiring, discipline and termination. We defend employers against employee claims, including those charging harassment. We represent shipowners in labor contract negotiations with maritime industry labor unions. In addition, we train managers on appropriate employment practices.

### **Regulations and Legislation**

Clients rely on us to ensure that they comply with federal regulations governing the maritime industry, one of the nation's most heavily regulated business sectors. Our advice covers all aspects of these regulations, including the following:

- ▶ Coastwise trade laws
- ▶ Maritime subsidy programs
- ▶ Rebuild classifications
- ▶ Reflagging issues
- ▶ Qualification of vessels and crews for participation in domestic fishing and cargo trades
- ▶ Enforcement matters
- ▶ Audits and investigations

Our experience and expertise extends to the economic regulation of ocean shipping and related antitrust and international trade issues under such laws as the Shipping Act of 1984, the Controlled Carrier Act, the Foreign Shipping Practices Act and the ICC Termination Act.

Our maritime and fisheries lawyers also help trade associations in the transportation industry on public policy and regulatory compliance issues. This work greatly contributes to our understanding of both the legal and business sides of the maritime industry and enhances the advice we give clients.

Garvey Schubert Barer actively participates in the legislative process before the U.S. Congress. Our lawyers draft proposed legislation and help clients prepare their testimony before congressional committees.