

Controlling & Predicting Legal Costs - Waypoints 03



Mark Mathews

Deputy Head of Underwriting (London) & Head of Product Development

How does an owner or charterer handle their everyday pre- and post fixture issues if they don't have the benefit of an in-house legal team or FD&D insurance? Mark Mathews believes the Qwest Legal service could be the answer.

Freight Demurrage & Defence or FD&D insurance provides legal costs cover for shipping disputes not covered by any other insurance. With that in mind, some might simply argue that all prudent operators without an in-house legal team should purchase FD&D.

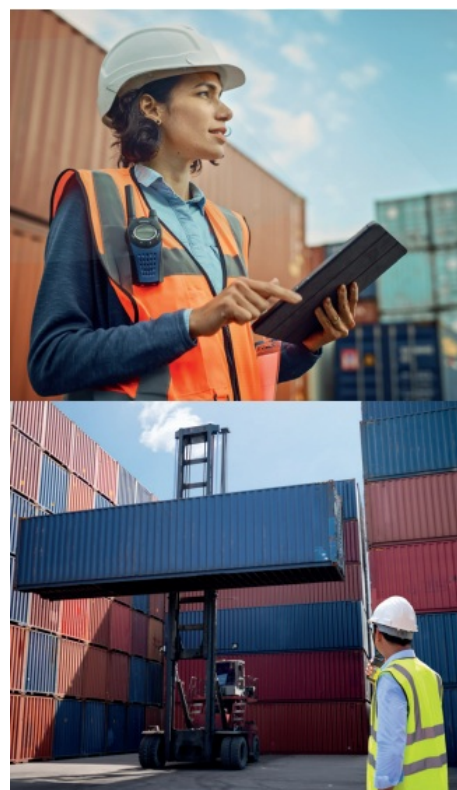
However, this is not always the case: a significant proportion of owners or charterers, do not buy FD&D insurance, as they believe they do not need it and in many cases, years of operation with no significant disputes with counter parties may have suggested that is right.

FD&D is not a 'compulsory' insurance like P&I and while legal costs that are likely to be incurred when a complex dispute needs to be arbitrated or litigated can be very high, such disputes are fortunately rare. But operators do find themselves in need of guidance for the more 'run of the mill' pre- and post-fixture issues relating to such as charterparty wordings, off-hire, demurrage, unpaid freight, speed and consumption, as well as other day to day disagreements with suppliers and partners arising out of the general course of business.

Each of those enquiries, if not fielded by a kindly P&I insurer, could result in a cost and legal spend that slowly builds up over the course of a year that is unpredictable and hard to budget for.

For a one-off occurrence, service may be negotiated from their P&I provider or a friendly lawyer. But any advice would in all likelihood be caveated to the extent that the professional providing the answers had not been formally appointed and may therefore not have been able to consider the circumstances and documentation relating to the matter in great detail.

This approach then rather depends on the goodwill of others and will only go so far. So how do operators cover themselves for issues which could potentially cause operational difficulties and, potentially, financial losses without the costs associated with repeat enquiries to law firms?



Qwest

This is where a retainer arrangement with Qwest can be a useful tool to have in the box. Under an annual service retainer, Qwest Legal provides clients with pre- and post-fixture advice on all maritime or trade enquiries. Contract wordings, claims and legal advice are all covered. This includes specific claims and disputes, as well as any general enquiries clients may have.

Solutions are tailored to the client's individual requirements, so if the client feels they may not make full use of an annual retainer, they can opt for a 'pay as you go' arrangement based on a pre-purchase of hours that carry over if unused. Under such an arrangement they are not paying for something that they do not use and can budget ahead more precisely.

There is no limit to the number of enquiries that can be made under the retainer nor is there any deductible. Clients can simply call on their dedicated team for advice whenever a problem arises.

It's important to note though that it's not solely an alternative for FD&D insurance. The retainer can be an extension beyond traditional P&I and FD&D matters, including advice on Hull & Machinery (H&M) claims.



To learn more about Qwest, [click here](#)

For many clients it acts as an important compliment to FD&D. Qwest Legal is structured in such a way that it operates as an extension of the client's "back office" service – in effect providing the client with an inhouse team that knows their business and advises accordingly. To provide comfort that the costs are covered should a case need to be litigated or arbitrated, the client is also able to extend the retainer to include legal fee protection insurance up to USD1m, which is invoked if and when litigation or arbitration is commenced.

This flexible approach extends to a derivative of Qwest Legal called Qwest Shipmanagers which is designed to cover some awkward scenarios that can occur in the shipmanagement business, such as where a shipmanager may face exposure from third parties but is not an assured on the owner's FD&D policy or even for disputes between the manager and the owner themselves. Such disputes may be rare but could be costly and Qwest Shipmanagement provides managers with a 'sleep easy' and cost-effective solution.



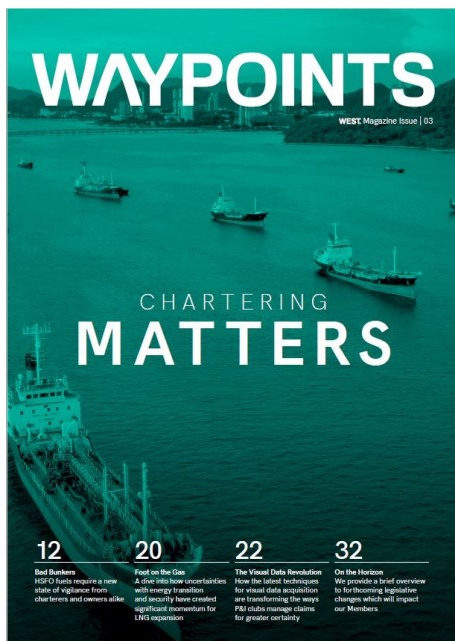
Completely flexible and able to be tailored to meet each client's individual needs, Qwest is always there to protect and support ship operators and traders as well as shipmanagers throughout their operations.



Mark Mathews

Deputy Head of Underwriting
(London) & Head of Product
Development, West P&I

Mark started his career as a Lloyd's Broker back in 1981 and worked for the majority of his time with Harris and Dixon. Mark began his Underwriting career in 2009 with the Shipowners' Club and prior to joining West, he also worked for the UK P&I Club. Whilst Mark is now the Deputy Head of Underwriting (London) he was previously responsible for West's Greek Cypriot and Russian Membership. In addition, Mark also works very closely with West's partners, Qwest, Nordic and Astaara with his role as Head of Product Development.



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