



Francis J. Barry, Jr.

Partner

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Practices

Admiralty

Commercial Litigation

Energy

Insurance Coverage

Industries

Energy

Insurance

Maritime

Bar Admissions

All Louisiana State Courts

All Louisiana Federal Courts

United States Court of Appeals for the Fifth Circuit

United States Supreme Court

Education

J.D., Tulane University, 1973

B.A., Tulane University, 1970

Jesuit High School, 1967

Frank Barry is an experienced maritime and energy litigator with successes involving maritime property damage, marine insurance indemnity and coverage claims. Frank also has achieved successful outcomes in insurance broker E&O claims, and in oil and gas claims such as Legacy Oil, on shore blowouts, and operating agreement litigation.

With over 30 years of experience, his reported cases include seminal Louisiana caselaw on gas balancing and preferential rights in mineral law (*Fina Oil & Chemical Co. v. Amoco Production Co.*, 673 So.2d 668 La.App. 1 Cir. 5/10/96; and *Amoco Production Company v. Fina Oil & Chemical Company*, 670 So.2d 502 La.App. 1 Cir. 2/23/96).

Frank has also handled large loss fire litigation on both the admiralty side (e.g., New Orleans Chalmette Marina Fire for INA, a Cunard reefer ship fire for Castle & Cooke, a products liability claim in the S/S STONEWALL JACKSON fire) and on the non-maritime side (Orange Street Wharf Fire for CIGNA of Europe, S.A./N.V.).

Clients have also sought Frank's legal assistance for counseling on maritime contracts, such as charter parties, bills of lading, contracts of affreightment, and other transportation issues.

He is currently the President/Chairman of the Admiralty Law Institute at Tulane University, after serving for many years as Chairman of the Program Committee for that CLE program.

Professional Associations

- The Maritime Law Association of the United States, Proctor
- Southeastern Admiralty Law Institute, Member
- The Admiralty Law Institute, Tulane University
 - Chairman/President
 - Planning & Program Committee
 - 50-year Reunion Program Committee
- Federal Bar Association
- Louisiana State Bar Association
 - House of Delegates, Member
- New Orleans Bar Association
- Louisiana Association of Defense Counsel
- Defense Research Institute (DRI)
- Association of Average Adjusters, London

- Annual Subscriber
- Association of Average Adjusters of the U.S.
- Mariners Club of New Orleans
- Offshore Marine Services Association
- Military Order of Foreign Wars, Commander Elect
- Thomas More Law Association
- Louisiana Lawyers for Life

Accolades

- Louisiana *SuperLawyers* list, 2007, 2010-present
- *The Best Lawyers in America*®, 2009-2022
- *New Orleans Magazine*'s "Top Lawyers" list, 2012, 2014, 2017-2018
- *Martindale-Hubbell*™ AV Preeminent® Peer Review Rated Lawyer

Community Involvement

- Louisiana Landmarks Society
- Louisiana Historical Society
- Round Table Club of New Orleans
- The Federalist Society
- Louisiana Commandery of the Military Order of Foreign Wars, Secretary, Commander Elect (2016)
- U.S. Naval Institute

Representative Successes

- **Royal Smit Transformers, et al v. Onego Shipping & Chartering, B.V., et al**
Obtained a dismissal of all claims against his client based upon immunity granted by Himalaya Clause in NVOCC's through bill of lading, extent of Himalaya Clause protections and through bill of lading. The client avoided a costly trial through Motion for Summary Judgment being granted by trial court and affirmed on appeal. *Royal Smit Transformers, et al v. Onego Shipping & Chartering, B.V., et al*, U.S. Fifth Circuit Court of Appeals, No., 17-30543 (August 2, 2018)
- **Hurricane Katrina Levee Breach, Consolidated Litigation - CA# 05-4182 (USDC, Eastern District of Louisiana)**
A joint motion for summary judgment filed by Deutsch Kerrigan's Frank Barry, Victor E. Stilwell (1939-2006) on behalf of engineers Modjeski and Masters, Inc., and Charles F. Seemann on behalf of Burk Kleinpeter, Inc., involved work supervised by the U.S. Army Corps of Engineers in the mammoth consolidated Hurricane Katrina levee breach litigation, pending before Judge Stanwood Duval in the United States District Court for the Eastern District of Louisiana was GRANTED and certified under Rule 54(b). The judgment upholds and enforces the five year peremptive period of LaRS 9: 5607, dismissing the claims filed in numerous class action suits against the clients of the firm. The Court's opinion and judgment are Doc. Nos. 2148 and 2149 in the consolidated cases (CA# 05-4182).
- **Hurricane Katrina Levee Breach - Appeal, In Re: Katrina Canal Breaches Litigation,**
On April 30, 2009, the United States Court of Appeals for the Fifth Circuit affirmed the dismissal of all claims against a defendant contractor Boh Bros Construction Co., and several engineering defendants including Modjeski and Masters, Inc. and Burk-Kleinpeter, Inc., in the Hurricane Katrina levee breach consolidated litigation in federal court in New

Orleans. Over 300,000 claims, asserting \$400 billion in damages, were filed against the U.S. Army Corps of Engineers, the Orleans Levee District, and several contractors and engineering firms which were engaged in various projects in the outfall drainage canals in New Orleans before the August 2005 hurricane. The Court of Appeals affirmed the trial court's decision that the Louisiana peremption statutes pertaining to engineers and contractors applied as a bar to the claims and that admiralty jurisdiction and federal maritime law did not apply. Frank Barry presented the oral argument for Deutsch Kerrigan's clients. In Re: Katrina Canal Breaches Litigation, U.S. 5th Cir. Appeal Nos. 07-30706, 07-30771, and 07-31141.

- **Watters et al vs Department of Social Services et al, 849 So.2d 724 (La. App. 4th Cir. 2003)**

Defended his clients against class action bodily injury claims of "toxic mold" in high-rise office building, and insurance coverage issues.

- **Tubos de Acero de Mexico, S.A. vs. American International Investment Corp.**, 292 F.3d 471 (5th Cir. 2002) (commercial litigation, Louisiana Trade Secrets Act, Louisiana Unfair Trade Practices Act, civil law resolatory condition).
- **The Tokio Marine & Fire Ins. Co. Ltd v. M/V Flora**, 1999 AMC 1569 (E.D.La 1999), aff'd 235 F3d 963 (5th Cir. 2000) (representing Mitsubishi cargo interests on board M/T Formosa Six in collision).
- **C. Itoh & Co. (USA) Inc. v. M/V Hans Leonhardt**, 719 F. Supp. 479 (E.D. La 1989) (comprehensive court opinion on steel cargo damage claims, COGSA, Harter Act, etc.)

Other Cases

- *Marquette Transportation Co. v. Louisiana Machinery Co.*, 367 F3d 398 (5th Cir. 2004) (engine room fire)
- *Steel Coils, Inc. v. M/V Lake Marion*, 2002 AMC 1680 (E.D. La. 2001) aff'd 331 F3d 422 (5th Cir. 2003) (charterer's legal liability)
- *Steel Coils, Inc. v. M/V Capt. Nicholas, et. al.*, 197 FSupp. 2d 560 (ED La. 2002) (defense of charterer's legal liability)
- *In Re Iowa Fleeting Service, Inc.*, 211 FSupp. 2d 794 (MD La. 2002) (marine salvage claims)
- *Liverpool and London Steamship Protection and Indemnity Association, Ltd. v. M/V Queen of Leman*, 296 F.3d 350 (5th Cir. 2002) (maritime liens)
- *Brooks Well Servicing, Inc. v. Cudd Pressure Control*, 850 So 2d 1027 (La. App. 2d Cir. 2003) and 796 So.2d 66 (La. App. 2d Cir. 2001) (on shore well blowout)
- *Nissho Iwai Corp. v. M/V Joy Sea*, 2002 AMC 1305 (E.D. La. 2002) 1999 WL 970335 (E.D.La 1999) (cargo claim forum selection and arbitration)
- *Dickson Marine, Inc. et al v. Panalpina, Inc. et al*, 961 F. Supp. 947 (EDLa. 1997), affirmed 179 F3d 331 (5th Cir. 1999) (defending claims against brokers/agents, repair companies for capsizing of oil and gas liftboat off African east coast, agency and jurisdictional issues)
- *Egorov, Puchinsky, Afanasiev & Juring, et al v. Terriberry, Carroll & Yancey, et al*, 183 F3d 453 (5th Cir. 1999) (claims of interference with contract against vessel owner's maritime counsel)
- *American Marine Corp. v. Barge American Gulf III*, 1999 AMC 2596 (E.D. La. 1999) (exclusion of government survey report)
- *Williams v. Treasure Chest Casino, L.C.C.*, 1998 AMC 1300 (E.D.La 1998) (marine P&I coverage of sexual harassment claims)
- *Dickson Marine, Inc. et al v. Panalpina, Inc. et al*, 961 F. Supp. 947 (EDLa. 1997), affirmed 179 F3d 331 (5th Cir. 1999) Mr. Barry defended clients in claims against

brokers/agents, repair companies for capsizing of oil and gas lifeboat off African east coast, agency and jurisdictional issues.

- *Amoco Production Co. v. Fina Oil and Chemical Corp.*, 670 So.2d 502 (La. App. 1st Cir. 1996) (oil and gas balancing contract)
- *Kanematsu (USA) Inc. v. M/V Hua Guang*, 1996 WL 764106, 1996 AMC 2845 (E.D. La 1996) (cargo damage)
- *In Re: Trygg Hansa Ins. Co. Ltd.*, 896 F. Supp. 624 (E.D. La 1995) (jurisdiction to take discovery for foreign court)
- *Cadawas v. Skibs Storli Bergin*, 630 So.2d 289 (La. App. 5th Cir.1993) (product liability-jurisdiction)
- *In Re Waterman S.S. Corp. (M/V Stonewall Jackson)*, 1992 AMC 2658, 1992 AMC 2665 (E. D. La. 1992) (Limitation; Removal of DOHSA actions), 1993 AMC 1494, 1501 (E.D. La. 1992)
- *Deutsche Shell Tanker v. Placid Refining Co.*, 767 F.Supp. 762 (E.D. La 1991), 993 F.2d 466 (5th Cir.1993) (general average)
- *Albany Ins. Co. v. Anh Thi Kieu*, 927 F.2d 882 (5th Cir. 1991) (marine hull insurance)
- *Delta Commodities Inc. v. M/T Jo Oak*, 1990 AMC 820 (E.D. La 1989) (allision with pier)
- *Hillman v. Marcello Ins. Agency*, 1989 AMC 1365 (La. 17th JDC and 1st Cir. Ct. App. La. 1989) (marine hull insurance)
- *Reeled Tubing Inc. v. M/V Chad G*, 794 F.2d 1026 (5th Cir. 1986) (cargo damage; pre-judgment interest)
- *Associated Dredging Co. v. Continental Marine Towing*, 617 F. Supp. 961 (E.D. La 1985) (sinking)
- *Syndicate 420 at Lloyd's v. Glacier General Assurance Co.*, 604 F. Supp. 1443 (E.D. La 1985), 633 F. Supp. 428 (E.D. La 1986) (marine insurance)
- *State of Louisiana, ex rel. Guste v. M/V Testbank*, 564 F. Supp. 729 and 524 F. Supp. 1170 (E.D. La 1983) (cargo claims in collision)
- *All Commodities Supplies Co. v. M/V Acritas*, 702 F.2d 1260 (5th Cir. 1983) (cargo damage)
- *Candies Towing Co. v. M/V B&C Eserman*, 673 F.2d 91 (5th Cir. 1982) (sinking)
- *Bank of New Orleans and Trust Co. v. O/S Tracy Marine*, 455 F.Supp. 78 (W.D. La 1978) (maritime liens)
- *European - American Banking Corp. v. M/S Rosaria*, 486 F. Supp. 245 (S.D. Miss. 1978) (maritime liens)
- *Alamo Chemical Transp. Co. v. M/V Overseas Valdez*, 398 F. Supp. 1094 (E.D. La 1975) (collision)

Publications

- "COVID-19 Business Interruption Insurance Claims Coverage Issues," IADC Committee Newsletter, June 2020