



# SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



## Whistleblower Wins Against Maersk

Maersk Line was recently ordered to pay over US\$700,000 in back wages and damages as well as reinstate a “whistleblowing” seafarer.

The United States Department of Labor’s Occupational Safety and Health Administration (OSHA) found the world’s second-largest containerline “illegally” suspended and terminated the seafarer. The carrier’s actions were deemed a retaliation for the seafarer having reported “numerous safety concerns about a company vessel to the United States Coast Guard”.

According to an official OSHA statement, the seafarer reported a variety of safety concerns to the Coast Guard about the 292.08-metre and 50,442-GT Safmarine Mafadi, including:

- gear used to release lifeboats did not work properly and needed repair and replacement
- on several occasions a ship’s trainee was left alone and unsupervised while on ship’s watch, including during one incident when a fuel and oil spill occurred that took the crew two days to clean, and could have created an environmental spill
- crew members possessed and possibly consumed alcohol onboard
- two leaks in the starboard tunnel, found during an inspection, and the bilge system caused flooding in cargo holds and needed need of repair
- rusted, corroded and broken deck sockets needed repair and replacement.

The OSHA investigation found that Maersk took punitive action against the seafarer “for making the complaint without notifying the company first”.

Dallas (Texas)-based OSHA regional administrator Eric Harbin emphasised that United States federal law protected a seafarer’s right to report safety concerns to federal regulatory agencies – “a fact every maritime industry employer and vessel owner must know”.

“Failure to recognise these rights can instil a culture of intimidation that could lead to disastrous or deadly consequences,” said Mr Harbin.

“The order underscores our commitment to enforcing whistleblower rights that protect seamen.”

Maersk was also consequently ordered to revise its policy to not prohibit seafarers from contacting the Coast Guard or other United States federal, state or local regulatory agencies, before first notifying the company.

Coast Guard Rear Admiral and Assistant Commandant for Prevention Policy Wayne Arguin emphasised his agency was committed to partnering with OSHA in protecting whistleblowers and to “vigorously enforce the Seaman’s Protection Act”.

“We encourage everyone within the maritime domain to support and abide by these protections,” he said.

“An open and transparent safety culture within the maritime industry is vital to protecting the lives of mariners and the public. Together, we can make the maritime workplace safe for everyone.”

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