

Spring 2025
6350 Maritime Personal Injury Litigation - UNGER-

Professor(s): John Unger (ADJUNCT)

Credits: 3

Course Areas: *International Law*

Time: 4:00p-5:30p MW **Location:**

Course Outline: *The objectives of this course are to teach the substantive law of the subject matter in a manner which will provide a historical review of the law and present day status; to consider ethical and professional questions related to the subject matter, and to integrate the subject matter with the analytical and practical skills necessary to the practice of law in this area.*

Course Syllabus: On File.

Course Notes:

Adjunct Professor John Unger practiced maritime law in Houston for more than 40 years, specializing in personal injury and death litigation. He is the former Managing Partner at Royston, Rayzor, Vickery and Williams LLP.

First Day Assignments: Pages 1 to A-34 in main course book.

Final Exam Schedule: TBA

This course will have:

Exam: Closed Book

Syllabus for Maritime Personal Injury Litigation

Prof. John F. Unger (Adjunct)
Spring 2025 • MW 4:00 to 5:30 p.m.

I. Required Course Materials

The required text for this course is *Cases and Materials on Maritime Personal Injury and Death*, 2024 Ed. (Gus A. Schill and John F. Unger) and 2025 Supplement. The course materials will be provided via the Dean's Office.

II. Instructor Information

- *Email:* ungerjohnf@gmail.com
- *Phone number:* 832.545.5279.
- *Office Hours:* I will be available from 1 hour before class until 1 hour after class upon advance request. Other hours may be arranged by request.

III. Course Objectives and Learning Outcomes

By the end of this course, you will be able to:

- understand and identify overarching maritime law principles, theories, and policies;
- identify and consider ethical and professional questions raised by the course materials; have knowledge and understanding of jurisdictional, procedural and substantive maritime personal injury and death law;

IV. Teaching Objectives and Philosophy

This course will be taught in a manner that will expose you to the issues to be faced in pursuing and defending maritime personal injury litigation in state and federal court. Jurisdiction, procedure, substantive causes of action, defenses and damages will be highlighted. Although legal theory will be discussed, the main focus will be on applying that theory to real life litigation.

V. Reading Assignments

The reading assignments for the semester are attached at the end of this syllabus. Students are to prepare for each class by reading the entire assignment for the day *before* attending class. I plan for us to cover one assignment per class period. If you miss a class meeting, it is your responsibility to check with a classmate to determine whether the class finished the entire assignment on the day you missed.

VI. Class Preparation and Participation

I expect you each to actively participate in discussion of the topics covered in each class session.

VII. Attendance Requirements and Pass Fail Options

It is anticipated that classes will be held in person.

Historically, attendance of a minimum of 80 percent of the classes has been expected in order to successfully complete the class. You may attend up to 3 class sessions via Zoom to account for unforeseen scheduling issues. If you attend such sessions virtually, you will not be counted absent. This attendance must be requested in advance. Attending class requires having read the daily assignment before arriving and being prepared to discuss the material in class. Your grade in the class will be made up entirely of your grade on the final examination. You have the option to attend this class “Pass/Fail” or for a grade. The format of the examination will be closed book, two or three essay questions.

VIII. Professionalism

A. Classroom Decorum

The classroom is a learning space where each student is treated with respect and dignity and where everyone is provided the opportunity to participate, contribute, and succeed. In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran’s status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status, or identity. I encourage you to speak up and share your views appropriately throughout the semester. I also expect every class member to remember that in this learning environment, we will engage respectfully and with professionalism toward each other. In the words of the [Texas Lawyer’s Creed](#), “[a] lawyer should always adhere to the highest principles of professionalism.” Professionalism comprises attributes like civility, courtesy, respect, candor, fairness, and ethical behavior. As a lawyer-in-training, I expect this professionalism from you. I hold myself to the same standard.

B. Tardiness

I respect your time and education by doing my best to start and end our class meetings on time. Please be on time, seated, and ready to go before I begin class.

C. Chosen Names and Preferred Pronouns

I plan to refer to students as Mr. or Ms. (last name) during our class meetings. I will gladly address you by an alternate name or your preferred gender pronoun. Please advise me of your preference early in the semester so I can make a notation to my records.

IX. The Use of Artificial Intelligence Is Prohibited in the Course

The use of artificial intelligence (AI) is prohibited in this course. Thus, using AI or AI-generated text for formal assessments (final exam) is prohibited.

X. Honor Code

The [UHLC Honor Code](#) applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in this course syllabus.

Please note the Honor Code's plagiarism policy and its prohibition against receiving unauthorized aid or using unauthorized materials.

XI. Grading

Final Course Grade

Your course grade will be based on a 3 hour final exam. I will provide you with more information about the exam later this semester, and well in advance of the exam date.

XII. Important Course Dates

First Day– Mon 1/13

Spring Break – No classes Mon 3/10 and Wed 3/2

Last Day of Class – Wed 4/23

Final Exam – TBA

XIII. Title IX/Sexual Misconduct

Pursuant to the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

XIV. Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible to its students. Any student with a disability who is experiencing barriers to learning, assessment, or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website at <https://uh.edu/accessibility/>, by calling (713) 743-5400, or by emailing jdcenter@Central.UH.EDU.

XV. Mental Health and Wellness Resources

The University of Houston has several resources to support students’ mental health and overall wellness, including [CoogsCARE](#) and the [UH Go App](#):

- [UH Counseling and Psychological Services](#) (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment, and sadness. CAPS provides individual and couples counseling, group therapy, workshops, and connections to other support services on and off campus. For assistance, visit uh.edu/caps, call 713-743-5454, or visit a [Let’s Talk](#) location in person or virtually. Let’s Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.
- The [Student Health Center](#) offers a [Psychiatry Clinic](#) for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.
- The [A.D. Bruce Religion Center](#) offers spiritual support and a variety of programs centered on well-being.
- If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or for the [National Suicide and Crisis Lifeline](#), you call or text 988 or go to 988lifeline.org.

XVI. Other Helpful UH Resources:

[UH Non-Discrimination Statement](#)

[LGBTQ Resource Center](#)

[Cougars in Recovery](#)

[UH Veteran Services](#)

[Cougar Cupboard](#)

[DACA: What You Need to Know](#)

[Student Health Center & Campus Pharmacy](#)

[UH Wellness](#)

XVII. Recording of Classes Not Permitted

Students may not record all or part of class, livestream all or part of class, or make or distribute screen captures without the advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. The instructor may record classes. Students may use the instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

XVIII. Syllabus Changes

Although substantial modification of this syllabus is unlikely, any changes will be promptly notified to you by in class communication or email.

XVIX. SPECIFIC MATERIAL TO BE COVERED

Admiralty Jurisdiction

One element of federal court jurisdiction focuses upon an admiralty docket, a subject that is separate from other areas of federal court jurisdiction. Cases filed on this docket are given a civil action number, but they proceed as trials to the court as opposed to a jury. Admiralty jurisdiction is dependent upon the tort and contract disputes having a maritime nexus. Not only is jurisdiction dependent upon this nexus, but so is the choice of laws for governing maritime principles. Parenthetically, the terms "admiralty" and "maritime" are synonymous.

For many years maritime tort law jurisdiction only required an accident on navigable waters, but since 1972 when the U.S. Supreme Court introduced the requirement of a relationship with traditional maritime activity the courts have continued to define the contours of maritime jurisdiction.

Maritime causes of action are not limited to the admiralty docket; they may be filed in the state court, or on the civil side of the federal court with the right to a jury trial assuming either diversity or federal question jurisdiction. Strangely, maritime actions are not considered as a federal question for the purpose of jurisdiction.

Seaman Status

One of the three avenues of recovery available to a vessel's crewmember is the Jones Act, a statute dependent upon the showing of an employer's negligence.¹ This statute incorporates the terms of the Federal Employers' Liability Act (FELA), a workers' compensation Act for railroad workers. There are three requirements to claim the benefits of the Jones Act. They are assignment to a vessel, the plaintiff being classified as a seaman, and an employee-employer relationship. This section focuses upon the necessary ingredients for a maritime worker to reach the status of a seaman (member of the vessel's crew).

What is a Vessel?

The United States Supreme Court has given substantial attention to this issue recently. A wide range of floating objects are subject to a determination of whether they should be classified as vessels for the purpose of defining the rights of injured claimants.

Causation and Standard of Care

This chapter considers the evidentiary burden upon the seaman to establish negligence on the part of the employer and/or the unseaworthiness of the vessel. The burden to establish breach of duty and causation for Jones Act negligence is light, while a somewhat higher burden is placed on the plaintiff to establish the unseaworthiness of the vessel and causation. This is unusual since the courts consider unseaworthiness to be a concept of liability without fault even though the definition is "reasonably fit for its intended use."

Maintenance and Cure

This is the most venerable of all maritime personal injury concepts. It is traced to the Middle Ages and is denominated as being a part of the Laws of Oleron.

¹The two remaining independent avenues for recovery are the theory of the vessel's unseaworthiness as well as maintenance and cure.

A seaman is entitled to maintenance (food and lodging expenses) while on outpatient status, plus cure (medical expenses) until a maximum recovery is achieved. The crewmember need only show an illness or injury during service aboard the vessel; there is no need to establish liability through either negligence or unseaworthiness. Additionally, the plaintiff's negligent conduct cannot reduce the recovery.

Longshore and Harbor Workers

In most instances the longshore workers are not direct employees of a vessel owner but are employed by an independent contractor referred to as a stevedore. These workers are not considered as seamen for Jones Act purposes. Their recovery against the employer is now resolved in most instances by workers' compensation pursuant to the Longshore Act, a federal statute. Of all the maritime theories of liability concerning maritime workers, perhaps none has been more subject to shifting than those in this area.

With respect to a longshore worker's right to recover damages from the non-employer vessel owner, Congress significantly modified the procedures in 1972 by denying the warranty of seaworthiness theory to injured longshore workers, forbidding actions for indemnity by the vessel owner against the stevedore, and providing for a substantial increase in workers' compensation benefits from the stevedore-employer. The statutory modification provided a cause of action sounding in negligence for the injured worker against the vessel owner. The courts continue to define the elements necessary for a successful claim against the vessel owner.

Wrongful Death and Monetary Losses

This section treats the theories of liability that are available to the survivors of maritime workers who are killed because of a maritime tort.

Also, the issues relative to figuring monetary losses for both personal injuries and death will be covered. In other words, liability is established but how much money will the plaintiff receive?

Offshore Workers and Artificial Islands

This is an area that has few clear answers. Remedies for workers on fixed and floating structures vary to a significant degree. It is a complex mix of state and federal laws including the Outer Continental Shelf Lands Act (OCSLA).

Statutes of Limitations and Laches

This concluding section will explore possible pitfalls and defenses associated with the question of timeliness of a maritime personal injury claim. A suit for maritime personal injury must be filed within three years from the date of the accident. However, shorter state statutes of limitation can be held to apply to injuries to maritime workers in certain instances.

**MARITIME PERSONAL INJURY
LITIGATION**

**Professor John F. Unger
ASSIGNMENTS – SPRING 2025**

Assignment	Class No.	Special Note	Date
Introduction, Notes, Executive Jet; Foremost	1		1/13
Sisson; Aqua Log; Notes; Notes; Robison	2		1/15
Wilander; Gizoni; Chandris;	3		1/22
Papai Sanchez; Santee; Campbell	4		1/27
Dutra; Lozman; Cain; Norwood	5		1/29
Notes Lauritzen Piper; Miller; Chacon; Kozur; Texas FNC statute; Texas Venue statute; FRCP 4k)(2) juris.	6		2/3
Jones Act; Notes; Seacost; Gautreaux; Lambert; Davis:	7		2/5
Webb Dean; Perry; Kernan; Mitchell	8		2/10

Drachenberg; Erftmier; Kermarec; Timco	9		2/12
Alvarez; Sorrell; CSX; Notes; Nolfo Jury Charge (First 4 pages).	10		2/17
Notes; Vaughan Jackson; Stermer	11		2/19
Peloto; Coulter; Messier; Townsend	12		2/24
Boatner; Parchmont; Boudreaux; Padilla; Griffin; Nolfo Jury Charge (All)	13		2/26
Notes; LHWCA; AWW/CR Tex. Comp. Statute; Caputo; Perini; MMR; Cowart	14		3/3
NOLA Depot; Willey; Scindia; Manson Gulf; Payano	15		3/5
Howlett; Greenwood; Bias; Edmonds; Rivera; Notes	16		3/17
Notes; Gulf Offshore; Huson; Barger	17		3/19

Herb's Welding; Bienvenue; Wood Group; Valladolid	18		3/24
Notes; DOHSA; Moragne; Gaudet	19		3/26
Higgenbotham; Tallentire; Miles; Tran	20		3/31
Yamaha; Note Lacourse; McBride;	21		4/2
Gund; Sunset; Dooley; American River	22		4/7
Hernandez; Barto; Schlueter Stacy	23		4/9
AmClyde; Ondimar; Combo	24		4/14
Lipelt; Monessen; Baker	25		4/16
Batterton; Notes; Pretus; Grazette	26		4/21
	27	Review	4/23