

Risk Management Tips for a Shipyard: Keeping Things Ship Shape



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By [Chris Richmond](#)
For [WorkBoat Magazine](#)

Today's shipyard can be an inherently dangerous workplace. Implementing a sound risk management program is an important part of managing your employee workers compensation and USL&H costs (reducing claims and limiting injuries. There's the added bonus of avoiding possible fines and penalties imposed by safety violations or hazardous waste clean-up. Here are some items to consider.

Implement regular assessments of your safety plan and see if it still reflects your current operations. Your initial plan should be based on a comprehensive risk assessment identifying hazards and the potential for accidents. There are risks everywhere, and they are major and minor: You should keep them all in mind. As your business grows and evolves so should your risk assessment

plan. Don't make the mistake of doing the work to create one leaving it to gather dust.

Conduct period safety training with your employees. Insurance companies and governmental agencies have material available but don't be afraid to develop your own manuals outlining specific jobs and procedures. Topics can include emergency response plans, safe work practices and hazard identification. And don't keep trainings only in the classroom. Real life scenarios and employee involvement, such as demonstrating a proper response to a fire or chemical spill, for example, can increase the learning potential.

Personal protection equipment should be readily accessible to your employees and its use should be as common as putting on a pair of pants. Steel-toed shoes, hard hats, hearing protection, safety glasses, respiratory masks and gloves are all great examples. And don't stop with just making this equipment available. Conduct proper fit test for masks – and make replacement filters available as well.

Have you reviewed procedures for potential pollution threats? Prevention is obviously the best response, so have proper handling procedures in place but in the event of a misfortune have a proper response plan in place. Maintain proper waste management practices and don't forget about storm runoff. Keeping up with compliance with environmental regulations and standards will not only save you the headache of a pollution claim but can also save you the fines and penalties associated with them.

A risk management program is only as good as the employees who are adhering to it as well as the management team enforcing it. Regular reviews can identify areas of success as well as areas of improvement, but don't make the mistake of taking the time to

create a plan and then having it languish on a shelf in your office. It needs to be used in order for it to be beneficial.

Legal System Abuse and its Impact on Insurance



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Legal system abuse, the exploitation of the legal system for personal gain or to create unfair advantages, has become a significant concern across various sectors, particularly the insurance industry. For this month's "Insurance Watch" I'm going to delve into the nature of legal system abuse, its far-reaching consequences, and the strategies being employed to combat it.

Legal system abuse manifests in various forms, including fraudulent claims, exaggerated damages, frivolous lawsuits, abuse of the discovery process and third-party litigation funding. These practices not only burden the legal system but also have profound economic and social implications.

The insurance industry bears the brunt of legal system abuse. The fraudulent claims, exaggerated damages and frivolous or drawn-out lawsuits inflate costs, leading to higher premiums for policyholders. The complex legal environment fostered by abusive practices further burdens insurers with increased legal fees and reputational damage.

I've heard it argued that because insurance companies are the ones dealing with the front lines of this issue this is somehow a victimless crime. Setting aside the troubling implication that it is somehow OK to defraud an entire sector of the economy, it is important to remember that the insurance industry is underpinned by what we pay for our coverage, so if costs climb so do our premiums. When it comes to legal system abuse, we are all suffering.

Additionally, the repercussions of legal system abuse extend far beyond the insurance industry. Legal system abuse distorts the economy, leading to higher prices, reduced economic growth and job losses. The legal system itself suffers from eroded public trust, overburdened courts, and weakened deterrence. Moreover, individuals and businesses face increased anxiety, reduced access to justice and a diversion of resources from critical social needs.

A relatively new – and currently entirely legal – phenomenon driving expenses and claims in addition to more fraudulent practices is third-party litigation funding, where outside investors finance lawsuits in exchange for a share of potential awards.

To give some context, the largest third-party litigation fund in the U.S., funded in by both private equity and overseas sovereign wealth funds among others, has a \$6 billion war chest to help push lawsuits to as expensive a conclusion as possible.

In essence, there's a massive thumb on the scale against businesses facing lawsuits and claims.

Addressing legal system abuse requires a multifaceted approach. Legislative and regulatory reforms, such as tort reform, stricter fraud penalties and increased transparency are essential. Judicial reforms, including stricter case management, sanctions for abusive litigation and promoting alternative dispute resolution are also crucial.

While the challenges posed by legal system abuse are substantial, a collaborative effort involving insurers, legislators, lawyers, courts, industry stakeholders and the public is essential to create a legal landscape that is fair, efficient and just for all. It's going to take all of us working together to fix this increasingly serious problem.

The Significant Implications of the Dali Bridge Accident Have Only Just Begun



By [Dan Bookham](#) for [WorkBoat Magazine](#)

As I sit down to write this, I'm still shaking off the jet lag from a week of meetings at Lloyd's of London. Lloyd's was buzzing with a range of issues: the pending North Atlantic hurricane season, tensions in the South China Sea, the potential for increased interference with shipping off Iran, and the ongoing conflicts in Ukraine and Gaza and the implications thereof for coverage in the Black- and Red Seas. The number one topic- by a country mile- was the Dali bridge accident and the significant ramifications that are already falling into place following the collision between the 9,971 TEU container ship and Baltimore's Francis Scott Key Bridge.

Anyone with even a rudimentary grasp of how my industry works can guess the first issue: this incident will result in substantial insurance claims. Experts estimate that insurers may face claims of up to \$3 billion. This figure is double the largest-ever protection & indemnity (P&I – liability relating to vessels) claim to date, which was the \$1.5 billion collective loss from the 2012 Costa Concordia disaster. One excess P&I underwriter I met with put the potential loss in context by pointing out \$3 billion would wipe out 20 years of underwriting profit across Lloyd's.

Another big topic was the complex insurance structure around this incident. The marine insurance sector operates with a complex and layered structure of insurance and reinsurance designed to minimize, transfer, and offset financial risk. While it's too early to definitively say whether this structure will be breached, the Dali incident has raised concerns about its limits.

Something else that cannot be ignored is the incident's location and our well-deserved reputation for aggressive and expensive

litigation here in the States. The collapse of the bridge, the loss of life, and impact on US East Coast trade and the Port of Baltimore all contribute to the complexity of the situation once it reaches the courts.

Operational impacts and trade disruptions continue also, even with the impressive (and often innovative) efforts underway to clear debris, channels, and terminal backlogs. The collapse of a vital regional transport link will continue to affect trade for some time to come, and as we've seen in recent memory with the Ever Given incident in the Suez Canal and general disruptions caused by COVID a supply chain rupture only exacerbates existing pressures and can have an outsized influence on regional and national economies.

The incident is also prompting a lot of searching questions about ship maintenance, tug assist, and why the bridge wasn't better protected. These are broader than Baltimore. I don't pretend to have any of the answers (my armchair NTSB investigator badge never being issued) but I do know that any incident causes underwriters to break out the microscopes and examine impacted industries and sectors in fine detail.

In summary, the Dali bridge accident poses challenges to the marine insurance system, and its impact will reverberate for many years. And in what won't be a surprise to anyone, marine insurance rates are likely to increase as a result.

Why Every Business, in Every Industry, Needs Cyber Coverage



By [Chris Richmond](#)
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Today's marine industry relies on computers, smart phones and the Internet to operate and is just as vulnerable as any other industry for cyber attacks. An attack can have a significant impact on your employees, your customers, your reputation and can bring you serious financial loss. A cyber liability policy can provide risk management services useful to you before, during and after a data breach.

There are two important types of cyber liability to know about: First party and third party.

A first party cyber liability occurs when your own data is stolen. This can include your own employees' personal information or information about your customers. A cyber liability policy will provide credit monitoring services to assist the affected individuals which could help minimize the risk of identity theft. Included in the category of first party cyber liability are:

- **Funds Transfer Fraud** is an intentional, unauthorized instruction transmitted via email to a financial

institution to transfer funds. If your computer system is compromised, a hacker can have access to your banking information and initiate fraudulent electronic wire transfers.

- **Lost Business Income** due to cyber theft, (a hack or data breach), is not covered unless cyber coverage is in place. Your regular business insurance policy covers you for things like fire, theft and wind, but not anything cyber-related.

Third party liability coverage can provide protection for damage caused by your business to third parties due to a hack. This could be confidential client information that you store in your system. Coverage included in this category are:

- **Breach of Privacy:** A client's personally identifiable information has been accessed by an unauthorized party.
- **Misuse of Personal Data:** Personal data is stolen or misused and they suffer financial damages.
- **Transmission of Malicious Content:** Failure to stop the transmission of virus, malware or other malicious content.

Computers, smart phones and the Internet are as important as any other business tool. They also leave you vulnerable to losses. It is very easy to sit back and say your facility is too small and assume no one would ever want your data and think a hack could never happen to you. But since that is exactly what the hackers want you to say, best to consider adding cyber coverage to your insurance policy. Have a talk with your agent and learn more about this important coverage.

Reviewing Marine Coverage With Your Agent



By [Chris Richmond, CIC, AAI, CMIP](#)
For [WorkBoat Magazine](#), April 2024

At a recent conference I was speaking to a new owner of a commercial passenger vessel. He had stayed with the former owner's insurance company and after reviewing coverages with the agent realized there were multiple gaps. While this was a beneficial meeting for the new owner, it revealed serious gaps in coverage for the previous. Here's a short list:

- **Changes in operation.** When the original policy was written, the vessel operations consisted of just day cruises. As the business grew so did the operations. Multi-day overnight cruises were now standard. However, the policy warranties expressed day cruises and not overnight.
- **Changes in navigation.** While the vessel's normal cruising area had not changed, one thing that had changed was that the vessel was traveling to a festival in a city outside of its warranted navigational territory. Had there been a claim while en route to or while at this port, coverage would have been denied due to a breach of navigational warranty.
- **Propulsion** When the original policy was written, the owner

had additional coverage for the small boat that he used in conjunction with his larger boat. The policy had a stated value and a description of both the tender as well as the outboard. When it was time to replace the tired old outboard with a brand new unit, the owner failed to pass this information along to his agent. While the tender was still insured it did not reflect the increased value of the new motor.

- **Extra crew.** The operator's policy has coverage for a stated number of crew. When the owner took the vessel on longer trips, he increased his crew count to better man the boat. What he didn't do was update his crew coverage on his policy. Had there been a crew claim and it was determined that there were more crew on the vessel than stated in the policy, he could have faced a penalty based on the percentage he under reported.

Insurance is one of the larger expenses that you have with your vessel and operation. You want to do all you can before a claim occurs to ensure that you get paid in the event of an accident.

Insurance claims should not be a roll of the dice: Take the time to review with your agent what you currently have and make sure to keep him or her up to date with any changes.

Tracking Near Misses and Building a No-Blame Culture of

Safety



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By Dan Bookham for [WorkBoat Magazine](#)

An accident near miss, also referred to as a close call, or near accident, is an event that happens in a shipyard or on board that has the potential to cause injury or damage, but luckily doesn't. Imagine someone almost getting hit by a swinging crane hook – that would be a near miss. By recognizing and recording these close calls, shipyards and vessel operators can learn from them and prevent future accidents.

The best in the business track accident near misses for a very important reason: Prevention. Near misses are warnings, pure and simple. By tracking these close calls, you can identify weaknesses in safety protocols before an accident happens. These brushes with disaster reveal root causes. Was it a faulty procedure? A communication breakdown? Uneven training? By understanding the why, you can take corrective actions to prevent similar situations from happening again. Talking openly about near misses is also a feature of a proactive safety culture. This can lead to a more vigilant workforce and a safer work environment overall.

Employers in shipyards and on vessels (and any workplace,

really) can encourage near miss reporting through a two-pronged approach: Fostering a culture of safety and making the reporting process itself convenient and positive. This takes leadership commitment to prioritizing safety and being visibly involved in safety initiatives, as well as a willingness to address concerns.

Making the most of near misses also requires a no-blame environment. Employees should feel comfortable reporting near misses without fear of punishment or being seen as incompetent. Emphasize that near misses are valuable information for improvement, not opportunities to assign blame. Recognize and appreciate employees who report near misses. This can be done through public praise, rewards programs (avoiding rewards based on quantity of reports), or simply by expressing gratitude. Encourage open communication about safety by regularly discussing safety procedures, hazards and near misses in safety meetings or training sessions.

Provide an easy-to-use reporting system, whether it's paper forms, a mobile app, or an online portal to allow for ease of reporting and different styles of communication. Make sure it's accessible both during and outside work hours for better recall of events. Offer options for anonymous reporting if employees prefer it. This can help those who are still hesitant to come forward as you build your safety culture. Minimize the amount of information required to report a near miss while still capturing the necessary details. Finally, be sure to communicate the results of near-miss investigations and the corrective actions taken and display gratitude for the heads up. This shows employees that their reports are valued and acted upon, encouraging future participation.

By combining these approaches, employers can create a safe space for employees to report near misses, ultimately leading to a

safer work environment for everyone in the shipyard or on board. In essence, tracking near misses is like catching a fire before it engulfs the whole building. It's a proactive approach to safety that can save lives and prevent costly accidents.

How Much is That Claim Going to Cost Me?



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By Chris Richmond
For [WorkBoat Magazine](#), February 2024

Clients often ask whether a claim they are reporting is going to affect their premium. . Insurance companies need to make a profit in order to remain in business – so as a matter of practice they will take a look at the amount of premium they have taken in compared to the amount they have paid out due to claims. Let' take a look at the process involved with an underwriter coming up with your premium.

Insurance underwriters look to insure profitable businesses, and when I say profitable, I mean profitable to the insurance company. They want the risk to have a favorable loss ratio. A loss ratio is calculated by taking the amount paid out in claims for the last five years and dividing it by the total premium paid to the insurance company for the same five years. Insurance companies vary in their loss ratio percentage but generally fall between 35% and 50%. If the client's loss ratio is too high the underwriter will either non-renew the policy or increase the premium.

You might be wondering about where the rest of the premium goes. Part of this goes to employee salaries, marketing, broker commissions, claims expenses, loss control visits, etc. In short, the remainder is what the insurance company has to operate as a business.

There are some factors that can be to your benefit when looking at your overall premium. Insurance companies like long-standing customers and if you can show more than five years of claims-free business with them then they can often take that into consideration. The insurance company will be less likely to drop you due to one large shock claim if they have made a profit from you over the long term.

If you have multiple vessels, you should keep them all insured with the same insurance company. The increase in premium with one company helps your loss ratio by diluting any claims you may have.

The same goes with combining your remaining policies with one company. If you are able to add property, commercial auto, marine general liability and the like with one company then they will look at the combined premium with calculating your loss ratio.

Market Outlook for 2024



By [Daniel Bookham](#)

For [WorkBoat Magazine – January 2024](#)

As we dive into 2024 it is time for me to break out the crystal ball once again and offer up my predictions for the shape of the insurance market for this coming year. I have been talking to a lot of fellow agents and brokers as well as folks on the insurance company and reinsurance side of the equation, and several broad trend lines have emerged.

First, the good news (at least from a risk management and broader economic perspective). The marine insurance market is expected to continue to grow in 2024. The cargo market is predicted to show some modest growth and when coupled with continued increases in property and vessel values and increasing demand for marine insurance products from emerging markets, the increased premium generated should help shore up insurers' balance sheets against continued claims turbulence.

However make no mistake, we are not out of the woods yet. The inputs that drive concern among insurers show no signs of slackening or decreasing in potential severity. The increasing value of global trade, the growing complexity of global supply

chains, the rising frequency and severity of natural catastrophes, potential broader economic instability, the ongoing conflicts in Ukraine and the middle east, and what will likely be turbulent election campaigns in the US, the UK, Mexico, Taiwan, and India among others could lead to uncertainty and instability that bleeds over into the insurance markets.

Additionally, the hard market that hit with full force last year is likely going to continue well into 2024 if not into 2025 (the smart money is on at least a three-year cycle). As a reminder, a hard insurance market is characterized by higher premiums, stricter underwriting standards, and reduced availability of coverage, and comes about because of a combination of historical underpricing of risk, increased frequency and/or severity of losses, underperforming investments, increased reinsurance expense, and broader economic pressures.

With that noted, the marine insurance market is expected to be characterized by several trends in 2024 that echo those we saw in 2023, including a continued hardening of rates, an increasing focus on underwriting profitability, an increased demand for new and innovative marine insurance products, and the increasing use of technology to improve (or at least rationalize) underwriting and claims handling.

In my market predictions for last year that were published in February 2023, I noted that companies that focus on the fundamentals of risk management, claims management, and safety culture would be best positioned to ride out the tightened underwriting and higher rates of a hard insurance market. This remains true, but it is important to be aware that as we head into the second year of this hard market good risks can get caught up with the bad as insurers push to either return to or increase profitability. Good companies can still usually hold their insurance costs down but be aware that this wave

ultimately breaks over all of us.

The Hazards of Tug Operations



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For [WorkBoat Magazine – November 2023](#)

It almost goes without saying in the pages of WorkBoat that the nation's tugboat crews are the sinew and muscle that bind the body of maritime and inland waterway trade together. An indispensable part of marine commerce, tugboat operations also present a range of dangers and hazards that can lead to significant insurance claims. An awareness of those hazards can go a long way towards mitigating the risks to vessels, crews, tows, and other folks on or near the water.

Even for old hands and experienced operators, a review of risks can be a good jumping off point for both preventative planning and mitigation of loss should one occur.

Collisions. Tugs often operate in crowded and congested waters, which increases the risk of collisions with other vessels. Collisions can cause significant damage to both vessels

involved, as well as to any cargo or property on board.

Groundings. Going aground can cause damage to the boat's hull and propulsion system and can also lead to spills of fuel or other hazardous materials.

Fires and explosions. More frequent than you'd think, fires and explosions can occur on tugboats for a variety of reasons, such as electrical malfunctions, fuel leaks, or welding accidents. Fires and explosions can cause significant damage to the tug and its crew and can also lead to environmental damage.

Mechanical failures. As many of us know too well, even on a well-maintained vessel mechanical failure can occur at any time. Crew injuries. Tugs have the potential to be dangerous workplaces if we aren't careful, and crew members can be injured in a variety of ways, such as falls from heights, slips and trips, or exposure to hazardous materials.

Theft and vandalism. Tugs and their equipment can be targets for theft and vandalism. Theft and vandalism can cause significant financial losses to the tugboat owner or operator.

Cargo damage. If a tow is not properly secured, it can be damaged or lost during transport.

As I've highlighted in past columns, a strong and organic safety culture that runs from the greenest crew member to the company leadership is the key to minimizing claims and potential financial loss and injury that can have significant business and emotional impacts on your company and its people.

Communication, training, the ability of anyone to flag a potential issue, and a commitment to "catch people doing something right" and celebrating smart behavior makes the difference. You also need to ensure that your barges, tugboats and docks are outfitted with the right tools and gear to support your safety culture; staying abreast of industry best practice

and not cutting corners is key. Finally, owners and operators should purchase adequate insurance coverage to protect themselves against the financial losses that can result from claims, as even the best managed vessels and fleets can find themselves with a claim on their hands. They call them accidents for a reason.

The Importance of a Current Marine Survey



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If you have a commercial hull policy you should expect a request for an updated survey from your underwriter every five years or so. This is done to both confirm the vessel's insured value as well as the current condition. Depending on what this survey states you can expect to see changes in both your coverage

limits as well vessel usage.

I always like to tell vessel owners that they know their boats better than anyone else, the good and the bad, so they should not expect any major surprises when they have a surveyor inspect their boat. When an underwriter requests a new survey it can be to your benefit to have a surveyor who has previously inspected your boat to do so again. They are familiar with the boat, with your operations and with you. You can also know what to expect from this surveyor and what sort of report to expect.

When you receive your report, the underwriter will want to know what your plan is with the survey recommendations. Depending on the severity you may not be able to operate until they have been addressed. Some recommendations can simply be noted that you will monitor the condition and take action in the future. One thing to remember though is that if you falsely state that you have addressed a survey recommendation and then have a claim you can potentially have no coverage should it be determined that you falsely claimed to have corrected the survey recommendation.

The survey will also provide both a market value as well as cost to build new value. The underwriter almost always goes with the market value. This recently presented a problem to a client of ours who had a new survey done by a different surveyor. His initial survey stated the value of the boat at \$250,000. A subsequent survey 10 years later (the underwriter missed the five-year request) done by a different surveyor showed the hull value at \$650,000. This proved to be a major increase in hull premium that the insured was not able to absorb. Through some negotiations with the underwriter we were able to insure the boat to 80% of the new survey value. This saved the insured some premium and also satisfied the underwriter's need to insure the vessel to its close enough to its value.

