

INJURED OFFSHORE?

FIVE HELPFUL TIPS WHEN BEGINNING YOUR LEGAL VOYAGE

If you or someone you know is injured offshore or near a navigable body of water (for example, on an oil rig, a barge, a ship, a tugboat, etc), there may be a claim for damages. However, the procedural and substantive law governing offshore claims is very different than the law governing onshore injuries.

You need to be sure you don't run aground during your legal voyage. This article provides five helpful tips to those who have been injured offshore and are considering legal action.

1. Find a Lawyer With Experience Handling Admiralty & Maritime Claims

If you have been injured working offshore and are considering legal action, the very first thing you should do is determine whether your lawyer has experience handling offshore injury claims. It is important that your lawyer have experience handling offshore injury claims, because the law governing offshore injury claims is completely different from the law governing onshore injury claims.

How do you find out if your lawyer has the right amount of experience? You should ask the lawyer questions about his or her background and experience handling offshore claims.

Your lawyer should understand the difference between jack-up rigs, semi-submersible rigs, work platforms, spars, ships, barges, tugs, floating cranes, etc. Your lawyer should know the difference between the Jones Act, General Maritime Law, Maintenance and Cure, the Longshore Harbor Worker's Compensation Act, etc. Your lawyer should know the difference between a roughneck, roustabout, rigger, toolpusher, crane operator, derrickman, ordinary seaman, able-bodied seaman, and tankerman.

In summary, after meeting with your lawyer, you should be able to determine whether he or she has the right amount of experience handling offshore injury claims. If your lawyer does not have an

established track record handling offshore injury claims, you should consider finding a lawyer who does.

2. Be Aware That Different Law Applies to Offshore Injury Claims

The law that applies to offshore injury claims is completely different from the law that applies to onshore injury claims.

The location of the worksite where the injury occurred as well as the nature of the work being performed and the nature of the job itself may have a substantial impact on the type of claim you can bring.

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The first and most important task is to determine your legal “status” under maritime law. An experienced maritime lawyer should be able to review your claim and determine your “status” under federal maritime law. The answer to the “status” question can mean the difference between a small recovery and a substantial recovery (or no recovery at all).

Generally, workers who have suffered injuries on or near a body of navigable water will fall into one of three categories: (1) seaman under the Jones Act (46 USC 688), (2) longshoreman under the Longshore & Harbor Workers Compensation Act (33 USC 901 et seq.),

or (3) land based worker governed by state law (non-maritime, landlocked).

Your lawyer should be able to determine your status during the first consultation, and guide you in the proper direction.

3. If You Are Injured Offshore, Do Not Assume That You Will Be Covered by State Worker's Compensation Laws

If you are injured offshore, do not make the mistake of assuming that you are covered by a state worker's compensation laws. In fact, state worker's compensation laws generally do not apply to injured “seamen.”

However, if you are a seaman, you may be able to collect the offshore equivalent of worker's compensation benefits. These benefits are called “maintenance and cure.”

“Maintenance” is daily pay if you are unable to work pursuant to a doctor's orders. “Cure” includes medical care, doctors, hospitals and prescriptions drugs for work-related injuries, until you reach maximum medical improvement.

Longshoremen are covered by the Longshore & Harbor Workers Compensation Act, which is a Federal Worker's Compensation Program.

4. The Jones Act Provides Special Remedies to “Seaman”

The Jones Act is a federal law which provides many potential remedies to “seamen” injured in the course and scope of their employment on “vessels.” (such as movable oil rigs, ships, barges, floating cranes, etc.). You may have a Jones Act claim regardless of whether you are an ordinary or able-bodied seaman, a pilot, captain, roughneck, roustabout, rigger, helicopter pilot, or other offshore worker.

Under the Jones Act, an injured employee can bring claims for negligence and unseaworthiness (in addition to maintenance and cure claims, discussed above).



To prevail in a negligence claim, a seaman must prove that the employer's fault played some part in causing his accident and injury. This claim is based on strict comparative fault. The seaman does not need to prove that his employer was 100% responsible for his injuries.

An injured seaman may also have a claim for "unseaworthiness." General maritime law imposes a duty upon a vessel owner to provide a seaworthy vessel to its crew members. The term "seaworthy vessel" means that the vessel, as well as its equipment and appurtenances, are "reasonably fit for their intended uses." Unseaworthiness claims focus on the vessel or rig itself, as well as the vessel or rig's equipment.

5. Your Employer or the Insurance Company May Attempt to Discourage You From Obtaining Important Information

Unfortunately, some employers may try to discourage injured offshore workers from obtaining important information about their legal rights. If you believe your employer is trying to discourage you from obtaining information about your legal rights, or is providing false or misleading information, you should be very suspicious.

You should also strongly consider speaking with an experienced maritime lawyer. Most experienced Admiralty & Maritime lawyers will provide a free no-cost, no-obligation initial consultation and be willing to guide you in the proper direction.

Final Thoughts

Offshore injury cases can be complex and difficult. If you have been injured offshore, before you embark on your legal journey, you should consult with an experienced maritime lawyer and obtain information about your legal rights.


About the Author

Brian Beckcom is one of the founding partners of Vujasinovic & Beckcom, L.L.P., a Houston-based law firm with a statewide and national practice. Mr. Beckcom handles serious injury and death claims. He devotes a substantial part of his practice representing injured offshore workers and their families and is a recognized authority on maritime injury claims.

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