

Margara OPA case against SIGCo – Summary

The US government tried to coerce \$40 million of liability for a supposed “substantial threat,” without having to prove its claims. SIGCo vindicated the rule of law by overturning that effort, to the benefit of the whole maritime industry. At the same time, SIGCo has made good on its promise to serve as a reliable financial backstop for Oil Pollution Act liability.

Detail

In April, 2006 the t/v Margara, carrying 300,000 barrels of oil for discharge at Tallaboa, Puerto Rico, veered off the channel and grounded on a coral reef. The vessel came off the reef within 24 hours and spilled no oil. A survey in port revealed only cosmetic hull damage and she was cleared to sail after completing discharge. The reef incurred damage from the ship’s movements on the reef.

SIGCo provided the COFR guarantee for the Margara but had no notice of the grounding until 2017 when NOAA asserted an OPA claim for damages under the Oil Pollution Act. NOAA asserted the grounding presented a substantial threat of oil discharge and the reef damage resulted. Following investigation, SIGCo concluded that the reef damage was the result of a grounding, but that there was no substantial threat of an oil spill as required to trigger liability under OPA — the only potential basis for SIGCo to be involved — SIGCo thus denied the claim. The ship’s P&I insurers rejected coverage under the terms of their policy, and declined to become involved in the claim, leaving SIGCo, as the COFR guarantor, to defend the claim.

In the ensuing litigation, the US asserted that the Coast Guard officer supervising the scene had, in his mind, determined the vessel posed a substantial threat, and the US said that determination alone was enough to establish liability. SIGCo objected, among other reasons because giving such conclusive weight to the private thoughts of the Coast Guard officer violates due process. The trial judge accepted the government’s position. But the appeals court correctly recognized that to claim reimbursement under the Oil Pollution Act, the government has to prove its case in court, like any other party would. SIGCo appreciates the diligent review by the US judicial system.

Following return of the case to the trial court, the parties have now settled the case with neither SIGCo nor the vessel interests admitting liability.

This was an expensive and complex case for SIGCo to litigate to its successful conclusion, and it has led to a critically important precedent for the maritime industry. Had the government claim succeeded, it would have dramatically changed how vessels and their



insurers deal with marine casualties. Instead of collaborating with the government in minimizing pollution risks, the industry would have had to treat the real-time incident response as being a simultaneous liability litigation. We believe the best practice is for a vessel operator to address the casualty, protect the environment, and deal with liability disputes after the vessel and the area are secure. SIGCo is proud that it produced an outcome that preserves the proper protections for vessel interests and their insurers in this highly litigious area of maritime liability, as well as supporting an outcome that preserves incentives to protect the environment. SIGCo remains committed to providing a robust financial backstop when liability does arise – a promise that SIGCo fulfilled in this case.