

Insider's Guide

to winning your

MARITIME

C INJURY

Case



Brian Beckcom

The

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Why I Wrote This Book

Thank you for obtaining a copy of this book. You will be glad you did.

The information in this book will help you avoid mistakes that too many injured offshore workers and people hurt offshore make.

This book will also give you some secrets into the way the lawsuit process really works, particularly in offshore injury cases.

I wrote this book for one reason. I have represented a lot of people who have been injured or killed offshore, and again and again I see them being mistreated, misled, or misinformed by their employers, the insurance industry, and even lawyers who claim to be helping them.

The offshore industry, and the insurance industry, have billions of dollars available and armies of lawyers to help them with their claims.

They have developed tricks and traps that can hurt or completely sink your case before you even know what happened.

The purpose of this book is to level the playing field between the offshore companies and the insurance companies. I want you to have as much information as possible so you can handle your case and make decisions intelligently.



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This book provides inside information that you won't hear from the offshore industry or the insurance companies.

This book will arm you with information so you can make decisions about what to do about your case and your legal rights, without being misled, misinformed, or mistreated along the way.



Who Are You And Why Should I Listen To You?

My name is Brian Beckcom. I am a board-certified personal injury lawyer.

I have personally handled thousands of offshore injury and other serious personal injury and wrongful death cases during my legal career.

Collectively, my clients have recovered tens of millions of dollars in settlements and verdicts.

I focus my practice on injury and wrongful death cases as well as cases against insurance companies or businesses that have not dealt fairly with people.

I do not represent insurance companies or big business.

A large number of my cases are against companies in the offshore industry and their insurance companies.

You can find out more about me and my firm by visiting these websites:

www.vbattorneys.com

www.themaritimelawyer.com

www.maritimeaccidentattorney.com

www.houstoninjuryaccidentlaw.com



Our law firm represents people in Texas, the Gulf Coast, Louisiana, Mississippi, Alabama, Florida, across the United States, and around the world.

Our main office is in downtown Houston, Texas, home to the world oil industry and one of the largest sea ports in the world.

We do not accept all cases or all clients, but if we accept your case, we will treat it seriously.

We will not delegate your case to a junior associate or staff member. Your case will be personally handled by one of the founding partners of our firm, both of whom are Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.

The Reason I Wrote This Book

I wrote this book because far too often, I see offshore companies mistreating or misleading their injured workers. In some cases, I've seen lawyers giving their own clients bad advice.

I see the insurance companies step in after someone is hurt and take advantage of people, giving them bad advice and cheap settlements.

I also have seen far too many injured offshore workers go to attorneys that frankly don't know enough about offshore injury cases to handle them properly. The case gets messed up or delayed, and then the inexperienced lawyer will call me and ask for help to "fix" the problems.

By that time it may be too late to save the case.

Most attorneys will not give you any information until you've made an appointment and hired their law firms. I don't believe that's always a good thing to do.

I think it's more important to give you this information, and then you can make your own decisions about what's best for you and your family without a lot of high-pressure input from some attorney who may or may not have your best interests in mind.



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Writing this book also saves me a lot of time too. I've put a bunch of information in this book for you to review. I've tried to answer all the most common questions I get from offshore injury clients.

So when we do meet to talkd about your case, you already know most of the basics.

The bottom line is that I want you to be educated about the process and to be able to make informed decisions without pressure from the insurance companies, the offshore companies, or some attorney pressuring you to sign some papers.



IMPORTANT NOTICE – The Information In This Book Is Not Legal Advice

When you file a lawsuit, you are basically entering a battle zone.

The insurance companies and the offshore industry will go into “full battle mode,” hire the best lawyers they can find, and fight tooth and nail to save every penny.

If I accept your case, we will enter this battle together. And we will do everything we can to win the battle. This book, hopefully, will help educate you for the voyage ahead.

But keep in mind, every case is different and I am not allowed to give legal advice in this book.

I can suggest things and identify things that will hurt your case. I can tell you things that may help your case. I can talk about what I’ve seen in my years of handling these cases.

But I can’t offer legal advice in this book and nothing in this book should be construed as legal advice.



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I will give you legal advice but only if I agree to accept your case and you decide to hire my law firm, and we both agree in writing that I will be your lawyer.

This book cannot guarantee your case will be successful.

But you will not waste your time reading it. And it will greatly enhance your knowledge of offshore injury cases and what to expect.



Way Too Many Offshore Workers Are Mistreated When They Are Hurt

It is a simple fact of life and one that our law firm has seen too many times.

A good, hard-working employee is injured offshore on the job through no fault of his or her own. The employee reports the injury. The company then either refuses to do an accident report, does a very quick but not very thorough accident report (or even an inaccurate report), and then tries to get the employee to write something or sign something giving away all their legal rights.

Or some one is hurt on a cruise ship and the ship owner tries to cover it up or minimize the seriousness of the injury.

Sometimes, the company will try to make the hurt person sign something before they will get them medical attention, a totally improper (and probably unethical) way of doing business.

I have even seen cases where companies go to the hospital after a worker is injured and try to get the injured worker to sign papers giving away important legal rights while the worker is laying in his hospital bed on medication.



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Even if the injured person can convince the company to provide medical care, often it will just be a quick exam by a company medic (not even a doctor) who will say the injury is a bruise or blister or some other minor issue. The medic then gives the injured employee some over-the-counter medication and orders the employee back to work.

In more serious cases, some companies will provide immediate medical care.

But they will provide the care through a company medical facility using company doctors. And those company doctors will be doing everything they can to save the company money.

It's really amazing.

There are medical facilities that basically do nothing but provide services for offshore companies and other industrial type companies. They make hundreds of thousands or even millions of dollars off these companies.

Question: If the medical facility is making hundreds of thousands of dollars or even millions of dollars off the offshore companies, whose best interest are they going to put first? Your best interests, or the companies?

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Of course they are going to put the companies' interest first.

This does not mean these medical facilities are dishonest or that the doctors are lying. However, medicine can be an art as well as a science, which means there are gray areas in medicine.

If your case is a close call, and the choice is between saving the company money or providing a complete and full medical workup and follow-up care to you, many of these facilities are going to lean towards the saving the company money.

Once the company has a “release to work” paper from the company doctor, even if you aren't ready to return, they will pester you and bug you and bother you and call you and write you and demand that you come back to work.

You know whether you are ready to return.

When you are still hurting, if the company makes you go back to work you may hurt yourself even worse. Or you may be a safety risk to your fellow workers.

That's why you want to make sure you are completely healed and better—both for your own health and the safety of your fellow workers.

But if you don't return to work when the company wants and on the company's schedule, then you're probably going to get fired.



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The company may say you “quit” by not coming back to work. Or the company may say you “walked off the job” because you didn’t come back.

Really this is just a way where they can avoid responsibility for firing an injured worker.

So if an employee is injured offshore, even if it’s not his or her fault, they may be out of a job really quickly.



Myths About Maritime & Jones Act Cases

The following are some myths about maritime injury cases that some people actually believe are true:

- All lawyers can handle a Jones Act or Maritime Injury Case
- The Bar Association determines whether a lawyer can advertise as a “Jones Act” or “Maritime Injury” lawyer
- All lawyers have the experience and resources to win Jones Act and maritime injury cases
- All lawyers have basically the same experience
- A lawyer who is good at divorce cases or DWI cases will be good at an offshore injury case
- A lawyer who advertises for Jones Act or Maritime Injury Cases must know how to handle these cases
- If you are injured offshore, you will have to get another job to support yourself even if you have not recovered from your injuries
- If you are injured offshore, you are required to give the company a recorded statement

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- If you are injured offshore, you must go to company doctors
- If you are injured offshore, the company can make you go back to work before you are ready
- If you are injured offshore, you can't go to your own doctor unless you want to pay for it yourself
- You should take the company's first settlement offer
- You don't need an experienced Jones Act or Maritime Injury Lawyer to negotiate with the company or the insurance company

The Truth About Jones Act & Maritime Injury Cases

- Not all lawyers have the same training. In fact, most lawyers have never and will never handle a Jones Act or Maritime Injury case in their legal career.
- The bar association does not determine whether a lawyer can advertise for Jones Act or Maritime Injury Cases. While bar associations will not let lawyers blatantly lie about their experience or qualifications, it is not unusual for a lawyer who has never actually handled a Jones Act or Maritime Injury Case to advertise for these cases.
- A good, experienced Jones Act or Maritime Injury lawyer will help you support yourself financially until your case is resolved or until you recover from your injuries. A good, experienced Jones Act or Maritime Injury lawyer will help you with this part of your case and ensure that you do not end up out on the streets because of the financial toll your injury has on your career.
- Going up against (and beating) the offshore companies and the insurance companies takes money and experience. In some cases, it takes tens of thousands of dollars (or even hundreds of thousands of dollars) to take the cases all the way to trial and win. Most lawyers just can't afford to advance this kind of money on a case. You need a lawyer with the financial re-



sources and experience to take the case all the way to court if necessary.

- Lawyers have vastly different experience. Some lawyers are good at divorces. Some are good criminal lawyers. Some lawyers are good at real estate transactions. Most lawyers know nothing at all about Jones Act or Maritime Injury cases. You need to find the right lawyer for your case.
- Just because a lawyer can handle a DWI case or a divorce case does not mean they know anything at all about Jones Act or Maritime Injury cases. In fact, a lawyer who is really good at DWI or divorce cases (or some other type of cases) ***is probably not going to have a lot of experience handling Jones Act or Maritime Injury cases.***
- A lawyer can advertise for whatever type of case he or she wants. However, just because a lawyer advertises for a specific type of case does not mean he or she knows how to handle that type of case.
- You doesn't have to give a recorded statement if you are injured offshore and anyone who says you do does not know what they are talking about. Either that, or they are trying to trick you.
- You are not required to go to company doctors. You can go to a doctor of your choosing. Anyone who says you are required to get medical treatment from com-

The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

pany doctors does not know what they are talking about. Or they are trying to trick you.

- Even though some companies will try to make you go back to work before you are ready, you are NOT required to go back to work until you are fully cleared by your doctors.
- The company is required to pay for your medical treatment under the Jones Act if you are hurt in the course of your employment. The company cannot refuse to pay for your medical treatment just because you chose your own doctor and not a company doctor.
- You should almost NEVER take the company's first settlement offer. You are being really dumb if you jump at the company's first settlement offer because the company almost NEVER makes its best offer first.
- If you choose to hire a lawyer, you need to hire one who knows what he or she is doing, not the lawyer who did your "mom's cousin's uncles will" or a lawyer you happen to know through some other connection. If you have a Jones Act or Maritime Injury case, you need to hire a Jones Act or Maritime Injury lawyer. It's that simple.

When You Are Hurt Offshore, The Company Has All The Power

If you get hurt working offshore, the company has all the power. You are in a position of weakness.

Think about it. The company probably has a lot of employees. In fact, some offshore companies have dozens, hundreds, or even thousands of employees.

The odds are pretty good that the company has had other injury claims before.

So the company will have experience handling claims made by injured employees.

Also, most companies have lawyers that work for them. Those lawyers will probably have some special expertise or experience handling and defeating claims by injured people. Otherwise, the company wouldn't hire the lawyers to begin with.

So the company will have experience handling injury claims.

Then, on top of all that, the company will probably have insurance. That means that an insurance company will be helping the company defeat claims by injured people or at

least make sure the insurance company and employer don't have to pay a full a reasonable settlement.

The insurance company will see hundreds of injury claims each year, maybe even thousands of injury claims. The insurance company will have “adjusters” whose only job is to save the insurance company money or defeat claims by injured people.

These adjusters are very good at what they do. Most experienced adjusters will have handled hundreds or thousands of claims. They will know how to trick the injured person into doing something that hurts his or her case. They will know how to make it seem like they are your best friend or have your best interest at heart.

The adjusters are not your best friend and do not have your best interest at heart. That's why they work for insurance companies—they have the companies' best interest at heart.

Compare all this with your situation. If you are hurt offshore, it's probably the first time you've ever been in this situation. Or, at least, you've only been hurt a couple of times. You won't have the experience the company has handling claims like yours. You won't have your own lawyers on retainer ready to help you win your case. You won't have a million or billion-dollar insurance company with an army of adjusters ready to help you with your case.

The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

So you start off your injury case with what amounts to an entire army of supervisors, management, company bosses, lawyers, and insurance adjusters against you.

Add to all this the fact that you may be in financially troubled waters as a result of your injury, and the end result is that

The deck really is stacked against you when you are hurt offshore.

So what do you do? Is there anyway to level the playing field? Or is all lost and you should just take what they offer, the first time they offer it?

Are you guaranteed to lose your case???

(go to the next page to find the answer)

No!

You Can Win Your Case – But You Must Level The Play- ing Field By Arming Yourself With Information

The bad news is that when you are hurt offshore you face an army of company men, lawyers, and insurance adjusters who have one goal and one goal only – to make sure you don't recover a dime, or that whatever you recover is tiny and insignificant.

The good news is that you can level the playing field by arming yourself with information.

Have you ever heard the phrase “Information is Power?”

Well, it's true. Information really is power. Especially if you are injured offshore, it's critically important that you obtain as much information as you can about:

- *Your injury*
- *How to get better*
- *Which doctors to see*
- *Whether to see a specialist*
- *What your rights are under the Maritime Injury law*
- *Whether you need a lawyer*

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- *How to find a lawyer*
- *How to make sure to hire the right lawyer*
- *How much your case is really worth*
- *Tricks the companies use against you*

And many other issues too numerous to list here.

So, How Do You Find This Information, Level The Playing Field, And Win Your Case?

At this point, you are probably asking “that’s great, getting information and all, but how do I arm myself with information and where do I get the information I need?”

If you’re asking that question, then this next section is for you.

WHAT TO DO FIRST – BEGIN GATHERING INFORMATION

Once upon a time, the only way you could get any information about your legal rights was by talking to a lawyer. And that meant paying money. Sometimes a lot of money.

Well, that’s not true anymore.

Now, you can find a lot of information about your legal rights without leaving your house.

The Internet has made it possible for everyone with a computer (or access to a computer) and an Internet connection (or access to an Internet connection) to get basic information about your legal rights.

On the internet, you can find websites devoted exclusively to Jones Act or Maritime Injury cases.

For example, our law firm websites, www.themaritimelawyer.com and www.maritimeaccidentattorney.com, both have lots of free and regularly updated information about maritime law.

You can find websites that will provide “Frequently Asked Questions” about offshore injury cases, or legal cases in general, and there is a chance your question may be answered.

You can visit other legal sites too.

Remember, it is important not to trust everything you read on the Internet, just like you wouldn’t believe everything you read or see on TV. In fact, some of the information may be wrong or false.

But the Internet can be a very valuable source for gathering basic information about your case.

You can also visit law libraries, *most of the time FOR FREE*. If there is a law school in your area, chances are really good that there will be a law library available for public use, particularly if the law library is attached to a public law school.

And if you have a courthouse where you live or close by, you will also probably have access to the courthouse library, which again will provide free legal information for you along with librarians to help you with your legal search.



The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

WHAT TO DO NEXT – START INTER- VIEWING ATTORNEYS

After you've done some basic research on your legal problem, start interviewing attorneys.

Why should you interview an attorney if you haven't even decided whether you want to *hire* an attorney?

Simple—because it's free. Most attorneys will listen to you and meet with you either in person or on the telephone for an initial free consultation.

Since talking to an attorney is free, why wouldn't you take advantage of this service? After all, the company has its own attorneys and insurance adjusters—shouldn't you??

How do you find attorneys?

There are a lot of different places where you can find attorneys who specialize or have a lot of experience in Jones Act or Maritime Injury cases. The following are just a few suggestions:

1. The Internet (but remember just because the attorney says he does Jones Act and Maritime Injury cases doesn't mean it's true)
2. The Yellow Pages (but the same thing applies—the attorney may be advertising for these types of cases but not know anything at all about them)

3. TV (Again, remember that TV lawyers may be great lawyers, but they may not know much about Jones Act or Maritime Injury cases)
4. Do you know any lawyers in your area? If so, ask them. They will probably not know much about offshore injury cases but they may be able to refer you to a lawyer who does.
5. Friends who have had legal troubles before, especially co-workers or friends in the offshore industry. Your friends may be able to recommend really good experienced lawyers especially if they have had similar problems or, even more important, they may be able to tell you which *lawyers NOT TO HIRE!*

THE NEXT STEP – INTERVIEW THE ATTORNEYS AND ASK THEM QUESTIONS

Probably one of the worst mistakes you can make is to hire the first attorney you interview. This would be like working for the first company that ever offered you a job or marrying the first person you ever date. While it may work out, you're probably better off talking to more than one attorney before deciding which one you want to hire—after all, if you only talk to one attorney or law firm, you won't know what other attorneys have to offer you.

The best and most experienced attorneys who handle offshore injury or Jones Act cases will have people lining up at their door to hire them. These lawyers will be very selective

The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

about the cases they accept and the people they represent. It's often hard to get an appointment to talk with them directly.

If it's easy to get an immediate appointment with the lawyer you are thinking about hiring, ask yourself why? Maybe that lawyer doesn't have much else to do?

Once you get an appointment with a lawyer you are thinking about hiring, you should ask questions. Lots of them.

Good lawyers will not be insulted by questions. They will most likely encourage you to ask as many questions as you want. Most of the best Jones Act and offshore injury lawyers will want you to educate yourself during the hiring process.

Any lawyer who seems to discourage your questions or doesn't answer them in a straightforward no-nonsense way should raise red flags.

After all, the best lawyers consider it their job to keep you informed and educated and comfortable during the entire process.

Questions to ask a lawyer you are thinking about hiring for an offshore injury case

1. How long have you been in practice?
2. Do you have any experience handling a case like mine?

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3. Can you give me a list of your past results or past cases?
4. Have you ever published any articles about cases like mine?
5. Have you ever had a case against the same company that was negligent in my case?
6. Will you actually work on my case?
7. How much experience does your support staff have in these types of cases?
8. Have you ever won a large verdict or settlement?
9. Are you board-certified in any field?
10. Do you carry malpractice insurance?
11. Have you ever been disciplined or reprimanded by a bar association?
12. What is my case worth?
13. Have you ever represented large companies or insurance companies?
14. Can I have a copy of my attorney-client contract to take home and study?
15. Why do you believe you should handle my case and not some other lawyer?

The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

This list does not include every possible good question. It may depend on your case. But this list will certainly cover a lot of important areas and get you started down the right road.

Any good offshore injury lawyer will be glad to answer all these questions and any other questions you have. And they will be glad to answer them in a straightforward, honest, no-nonsense way.

If the lawyer is evasive or says he won't answer your questions until you hire him as your lawyer by signing papers, then you should probably just leave the appointment. That lawyer is either not experienced enough for your case, is desperate for business, or has something to hide.

STEP FOUR – DETERMINE THE MOST IMPORTANT QUALITIES YOUR ATTOR- NEY SHOULD HAVE FOR YOUR CASE

You should make a list of what you consider the most important factors in deciding which attorney to hire.

People disagree on what factors are “most important.” However, generally speaking, the following factors seem to be very important for most clients:

1. Experience with your specific type of case. This is probably the factor that we hear about most, and get the most questions about. Note that this factor includes the phrase “with your specific type of case.”

That's important. Because you don't want to hire an attorney with 45 years of experience just because that attorney has a lot of "experience." The attorney may have no experience at all in handling a case like yours. So you not only want an experienced attorney but you also want an attorney with experience in cases like yours.

2. Results in the past. This is pretty commonsense. Basically, you want an attorney who gets results. Attorneys have different approaches. Some are mean and nasty. Some are nice and agreeable. Some are personable. Some are business-like. But most important, you want an attorney who gets results in cases like yours. **DON'T BE AFRAID TO ASK ABOUT PAST RESULTS.** You should ask the attorney specific questions about past results in cases like yours. You should ask for a list of results.
3. Board Certification. Board Certification means the attorney has been "certified" by an independent entity (either a State Bar or the National Board of Trial Advocacy) in a particular area of the law. Generally, board certified attorneys will have more experience in their area of speciality, but not always.
4. Financial resources. Your company has a lot of money and resources to fight your case. You need an attorney and a law firm that can meet the company toe-to-toe and not be intimidated by the company's financial resources.

The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

5. Trials. You need to ask your attorney whether he or she actually goes to trial and when the last time they went to trial. If your attorney does not go to trial on a consistent basis, it is likely that the company lawyers will know that and as a result they may pay less money in settlement.
6. Personality. Yes, personality. You will be working hand-in-hand with your attorney (and his or her staff) during the entire course of your case. Therefore, it's important that you have a good working relationship with your attorney.

STEP FIVE – FOLLOW YOUR ATTORNEY'S ADVICE AND YOUR DOCTOR'S ADVICE

This may sound like an obvious suggestion. And it is.

But many times clients do not want to follow their attorney or doctor's advice for reasons that are too numerous to name.

The advice here is simple. You need to listen to your attorney and follow his or her advice unless it is absolutely clear that the advice is not good advice.

If you've taken the time to research and interview and hire the right attorney for your case, your attorney will most likely give you good advice and will be giving you advice that will help you win your case and get the best settlement possible.

The same thing goes for your doctor. Unless it's a company doctor, you need to listen to your doctor, be honest, and take the doctor's advice.

If you don't the company will use that against you and make it seem like you are not really hurt or are a trouble-maker or shouldn't get the fair and reasonable amount of money you would get if you followed your doctor's advice.

STEP SIX – BE HONEST!

BEING HONEST MAY BE THE MOST IMPORTANT STEP TO WINNING YOUR CASE.

What do I mean by “being honest?”

Well, it means telling the truth about your case.

1. It means telling the truth about what happened to cause you to get hurt;
2. It means telling the truth about what parts of your body were hurt;
3. It means telling the truth about who witnessed your accident;
4. It means telling the truth about who is RESPONSIBLE for your accident;

The COMPLETE Guide to Winning Jones Act and Maritime Injury Claims

5. It means telling the truth to YOUR ATTORNEY about your case;
6. It means telling the truth to YOUR DOCTORS about your injuries;
7. It means telling the truth in your deposition if you have to give one;
8. It means telling the truth about whether you have been in any accidents before;
9. It means telling the truth about whether you have had any lawsuits before;
10. It means telling the truth about whether you have injured the same body part before;
11. It means telling the truth about what you can and cannot do as a result of your injury;
12. BASICALLY, IT MEANS TELLING THE TRUTH ABOUT EVERYTHING THAT HAS ANYTHING AT ALL TO DO WITH YOUR CASE.

Nothing will sink your case faster than lying about anything related to your case or your background. Nothing will help your case more than being completely, totally, 100% honest and upfront about your case and your background.

Even if there are things that you think will hurt your case, being honest about them will help you more than you realize and being dishonest about them will magnify the bad things about your case or your background.

So...if you remember only one bit of advice in this book, please remember this

BE HONEST!!!



What Kind Of Cases Do You Handle?

Potential clients ask this question a lot.

Our law firm handles any type of serious personal injury case where someone else's negligence caused or contributed to the injury. We also handle any wrongful death case where someone's negligence or recklessness caused or contributed to the death.

One of our main areas of focus is offshore injury and wrongful death cases. We handle offshore injury and wrongful death cases involving the following situations and many more:

- Injuries on offshore oil rigs
- Injuries on offshore oil platforms
- Injuries on semi-submersibles
- Injuries on mobile offshore drilling units
- Injuries on barges
- Injuries on tug boats
- Injuries on riverboats
- Injuries on fishing boats
- Injuries on sea-going and ocean-going vessels
- Injuries on yachts
- Injuries on ships
- Injuries on offshore cranes or construction equipment
- Injuries on recreational boats
- Injuries on cargo vessels
- Airplane crashes

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- Helicopters crashes
- Injuries on crewboats
- Injuries on cruise ships
- Injuries on floating casino boats
- Injuries on dredges
- Injuries on personnel boats
- Injuries on jet skis
- Injuries to commercial divers
- Injuries to any worker over water or on the docks.

What is the Jones Act?

Injured seamen and offshore workers often ask me to explain their possible remedies under the Jones Act and to explain the Jones Act to them.

The Jones Act is really a pretty straightforward set of rules first passed by Congress in 1920 and known as The Merchant Marine Act of 1920. The statute itself is short. Although the statute is short and can be read in less than 5 minutes, like a ship that's been in the water a long time, the Jones Act has a lot of barnacles in the form of Court opinions.

With that in mind, here's a simple explanation of the Jones Act.

The Jones Act requires, first, that U.S.-flagged vessels be built in the United States, owned by U.S. citizens, and documented under the laws of the United States. Documented means "registered, enrolled, or licensed under the laws of the United States." In addition, all officers and 75% of the crew must be U.S. citizens. Vessels that satisfy these requirements comprise the "Jones Act fleet".

The Jones Act restricts the carriage of goods between United States ports to United States flagged vessels.

Second, and more important to injured maritime workers, the Jones Act also allows injured sailors to obtain damages from their employers for the negligence of the

shipowner, the captain, or fellow members of the crew. It operates simply, by extending similar legislation already in place that allowed for recoveries by railroad workers and providing that this legislation also applies to sailors.

The language that gives injured seaman the right to recover damages for injuries suffered offshore is only one paragraph long:

“Any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right to trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply. . . .”

An injured seamen has three legal remedies.

The first is the right to “maintenance and cure,” the second is under the Jones Act for negligence, and the third is under the doctrine of unseaworthiness.

A simple analogy which, while not completely accurate, provides an easy way to distinguish between the three remedies is this: Maintenance (living expenses during recovery) and cure (medical care) is like workers’ compensation. A shipowner is required to provide maintenance and cure regardless of whether or not it was negligent in causing the seaman’s injuries.

The Jones Act is essentially a negligence cause of action. If the shipowner isn’t negligent, it has no liability to the seaman under the Jones Act.

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Unseaworthiness is like products liability law—if the ship or any of its appliances are defective, the seaman can sue the shipowner if he is injured due to the defect.

The Jones Act entitles injured sailors to recover past and future wage losses, medical care, and pain and suffering—elements of damages which are generally unavailable under maintenance and cure.

Under maintenance and cure the shipowner is only required to provide medical care until the seaman reaches maximum medical cure, after which the payments comes to an end.

The Jones Act should not be confused with the Longshoremen's and Harbor Workers' Compensation Act, which is a Federal statute that defines the workers' compensation rights of dockside employees whose work affects shipping upon navigable waters.

The Death on the High Seas Act governs remedies for the surviving kin of sailors who die on the job.

What is a Jones Act “vessel?”

To bring a claim under the Jones Act, an injured worker must be a “seaman” assigned to a “vessel” in “navigable waters.” The worker must have a relatively permanent connection to the vessel or to a fleet of vessels.

Importantly, the precise activity that caused the injury is not the deciding factor in determining whether a worker is a



Jones Act seaman. Rather, the overall circumstances of the work and the relationship to the vessel or fleet of vessels must be carefully examined.

Finally, the injured worker must contribute to the function or mission of the vessel.

The Jones Act generally considers movable offshore oil rigs (like jack-up rigs or semi-submersibles) to be Jones Act “vessels.” Dredges, tugboats, towboats, crew boats, tankerboats, supply boats, barges, fishing boats and similar special purpose vessels are considered “vessels” under the Jones Act.

Perhaps the best and most recent discussion of Jones Act “vessel” status can be found in the 2005 U.S. Supreme Court decision *Stewart v. Dutra Construction Co.*, decided February 22, 2005, unanimously.

What Is A Longshoreman And What Are Their Rights When Injured?

Workers who load and unload the ship's cargo and are employed by stevedoring companies, longshoremen or harbor worker unions, or who are employed by such companies other than the ship's owners are generally considered "longshoremen" or "harbor workers."

Longshoremen are covered by the Longshore and Harbor Workers' Compensation Act (LHWCA). They are entitled to a form of federal workers' compensation benefits for on-the-job injuries or death.

Longshoremen are entitled to collect benefits if they were injured in the course of their employment regardless of fault.

Longshoremen are not entitled to bring Jones Act or General Maritime Law claims against their employer. The U.S. Supreme Court has made it very clear that an injured worker cannot be a Longshoreman and a Jones Act seaman at the same time. The two laws, and the money compensation they allow, are mutually exclusive.

Although a Longshoreman cannot sue his employer, he may be able to sue the shipowner for negligence. Shipowners have a duty to ensure that the ship's equipment, tools, work spaces and other areas are safe from dangers.

Brian Beckcom

Shipowners must warn longshoremen/stevedores of any dangerous conditions on their ships.

If the shipowner fails to warn a longshoreman/stevedore of a dangerous condition and the longshoreman/stevedore is hurt as a result, the shipowner may be responsible for the longshoreman's damages. See, for example, *Scindia Steam Navigation Co. v. De Los Santos* (1981) 451 US 156, 68 L.Ed 2d 1, 101S Ct 1614).

Secrets Your Employer May Not Want You To Know If You Are Injured Offshore

If you are injured offshore and qualify as a Jones Act seaman, some employers will treat you honestly and fairly, provide independent medical advice and care, ensure that you recover from your injuries before requiring you to come back to work, and provide you and your family with appropriate payments while you recover from your injuries.

However, sometimes employers will try to “trick” you into believing things about your case and your situation that simply aren’t true, or are extremely misleading.

Almost every single employer will have lawyers and insurance adjusters ready to provide them with advice. Sometimes, they will attempt to get you to do takes actions that hurt your case and before you have the benefit of independent legal advice.

The following are some common tricks used by offshore employers that you should be aware of and that should cause “red flags” to come up:

- 1. Injured people ARE NOT required to give a recorded statement.***

The Jones Act does not require injured seamen to give a recorded statement to the employer or its insurance repre-

sentatives. While you should certainly report the accident immediately and in compliance with company procedures, you are not required to give a recorded statement.

If your employer or its insurance representatives tell you that you are required to give a recorded statement, you should be very suspicious. In fact, the employer may try to get you to say things that may hurt your case later on. And once it's recorded, you will have a lot of trouble later on if you were tricked into saying things you didn't mean.

Bottom line: Be very careful about giving any recorded statement before you get independent legal advice.

2. Injured people ARE NOT required to sign any paperwork in exchange for getting medical benefits or maintenance payments.

Recently, some Jones Act employers have started requiring, or strongly suggesting, that injured seamen sign papers before they get medical benefits, maintenance, or "advances" on their personal injury settlements.

This is NOT required under the Jones Act. And it is almost always a big mistake to sign such paperwork before consulting with independent, non-company affiliated lawyers.

Why is this a big mistake? Because employers often bury arbitration clauses or other language in this paperwork, and some courts have actually been enforcing these arbitrations clauses or waivers.



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What does it mean to sign and be bound by an arbitration clause? It means you may be forever giving up your right to a trial in Court, and instead, you may be agreeing to have your case heard by an arbitrator in a venue that is hand-picked by your employer. Almost always a bad idea.

If your employer requires you to sign paperwork after you're injured, you should **STRONGLY** consider having the paperwork reviewed by an independent, non-company affiliated lawyer to make absolutely sure you are not giving up important legal rights.

3. Injured people ARE NOT required to see company doctors.

Contrary to popular opinion, if you are injured off-shore, you are not required to see only company-selected doctors. You should pick a doctor who you like, with whom you are comfortable, and who treats you fairly and appropriately.

Unfortunately, some company-affiliated medical providers will try to force you back to work before you are ready, and will avoid performing tests that reveal the true extent of any possible injury.

Bottom line here is that you are allowed to select your own doctors. If your Jones Act employer says you are required to go to company-selected doctors only, they are wrong.

4. Injured people ARE entitled to medical benefits and maintenance regardless of fault

If you are injured offshore and qualify as a Jones Act seaman, you are entitled to medical benefits and maintenance (so-called “maintenance and cure”) regardless of who was at fault. Unless you were injured off the job, or you intentionally caused your own injuries, your Jones Act employer must pay maintenance and cure until you reach maximum medical improvement.

If the company tells you the injury was “your fault,” or wasn’t the fault of the employer, and therefore they are not required to pay your medical benefits and maintenance while you recover, they are wrong on this as well, and you should seek independent legal advice immediately to ensure that you get appropriate medical treatment.

5. Injured Jones Act seamen ARE entitled to bring claims for negligence and unseaworthiness against their employer if they were injured due to the employer’s fault or negligence

Injured Jones Act seamen are entitled to maintenance and cure regardless of fault. In addition to no-fault maintenance and cure, injured Jones Act seamen can bring negligence claims and unseaworthiness claims against their employer if the employer’s fault caused the injuries, if the vessel or rig was “unseaworthy,” or if the employer otherwise caused or even contributed to the injuries.

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If you can prove negligence or unseaworthiness, you may be entitled to future medical care beyond maximum medical improvement, lost wages both past and future, and pain and suffering and mental anguish damages. But in these situations, you must prove fault, unlike maintenance and cure, which is no-fault.

Some Jones Act or maritime employers may tell you that maintenance and cure is all you get.

Don't listen to this nonsense.

If there is negligence or fault, the law says you have a right to bring a negligence or unseaworthiness cause of action under the Jones Act, if you are a seaman.

The five issues above are just a few examples of commonly misunderstood legal issues arising in Jones Act injury cases.

In the meantime, trust your own common sense. If you are injured offshore, and something just doesn't "smell right," it probably isn't.

If you see red flags or something happens that causes you to be suspicious, you should strongly consider getting a free consultation from an experienced Jones Act attorney.

Most competent Jones Act attorneys will give you a no-charge free consultation and let you know whether your Jones Act employer is trying to trick you or not. When things don't "seem right," they usually aren't. Trust your gut.

I Was Injured Offshore And The Company Is Giving Me A Hard Time - What Should I Do??

This happens a lot.

Far too often, when someone is working offshore (either on a boat, dredge, drilling rig, supply boat, or in any job that requires them to work on or over water), they are exposed to unique and often dangerous conditions.

When an offshore worker is hurt, the employer has certain legal obligations to handle the situation appropriately.

However, far too often, the employer does not handle the situation appropriately.

Here are some tricks the employer (or its insurance company) may try if you are injured offshore and cannot work, and need medical treatment:

1. Try to get you to give a “recorded statement” either immediately after you are hurt, or while you are still in pain;
2. Tell you that if you don’t give a recorded statement, you won’t get any medical treatment;

3. Require you to go to company doctors for your medical care;
4. Refuse to pay your full wages while you are recovering;
5. Require you to come back to work before you are ready, and if you don't, claim that they have to "let you go" or "find someone else" for the job;
6. Try to blackball you with other employers in your industry;
7. Sue you for not coming back to work! (Yes, your employer can and may try this trick);
8. Tell you not to get your own lawyer, then offer you some totally unreasonable settlement.

All of these tricks are common. They are also inappropriate. You should not fall for them.

Unfortunately, if you are injured offshore, it is likely that the company (and its insurance company) will have an army of lawyers working behind the scenes to hurt your case or eliminate your legal rights. And you may not even know that these lawyers are working behind the scenes.

Before you do anything, arm yourself with information.

Our firm approach is unique

We don't handle a lot of small car wreck cases. We don't handle every case that is referred to us.

We accept a limited number of the cases we are asked to review each year.

The reason we accept only a limited number of cases each year is so we can focus on the cases and clients we do accept, and give them the best possible personalized service.

We believe that this results in much better settlements and verdicts for our clients.

We don't represent insurance companies or big business.

We represent people who are hurt or the families of people who are killed.

We don't try to be all things to all people. We stand firmly on the side of the people and not big business or big insurance companies.

We have handled cases in Texas, the Gulf Coast, Louisiana, Mississippi, across the United States, and across the world.

Other lawyers often call and ask for help with their offshore injury cases and ask for my advice on how to handle

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them properly. As a result, we have become recognized experts in the offshore injury field.

The companies know this, and so do their lawyers.

As a result, when we take a case, the company knows we mean business.

Often, this results in settlements that are much higher, and achieved much faster, than lawyers with no experience or reputation in the offshore industry.



About the Author

Brian Beckcom is an attorney who has devoted his career to representing individuals and families against the insurance companies and negligent corporations.

Mr. Beckcom is a graduate of Texas A&M University, where he was a varsity letterman on the basketball team as well as one of the highest ranking members of the Corps of Cadets.

Mr. Beckcom graduated from the University of Texas School of Law with honors. In law school, Mr. Beckcom was an editor for the Texas Law Review, a member of the Legal Eagles, and a law clerk for the late Charles Alan Wright.

Mr. Beckcom is Board Certified in Personal Injury Trial Law. He has written numerous articles on legal matters and has spoken to conferences on various legal topics. He is a recognized expert in maritime injury law, the Jones Act, and personal injury and wrongful death cases.



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Mr. Beckcom and his firm have recovered more than \$75,000,000.00 for their clients in settlements and verdicts.

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