



Australian Government

**Seafarers Safety, Rehabilitation
and Compensation Authority**

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**Panel Discussion
Return to Work Hypothetical**

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PANEL DISCUSSION

RETURN TO WORK HYPOTHETICAL

Chairperson's Introduction – Ladies and Gentlemen, could I ask you to return to your places. I hope you've all enjoyed that marvellous Melbourne sunshine and the great views across the Yarra and so on, but now back to work.

Our next component of the program is where we're going to participate in a panel discussion centring on "***Return to Work Hypothetical Scenario***". As we know satisfactory return to work outcomes in the Seacare scheme are often constrained by limited availability of temporary, suitable alternative duties to seafarers, given that reduced hours and modified duties are generally not available onboard a ship at sea. Also seafarers must meet the strict fitness for sea duty requirements of the industry before returning to sea. In addition where injured seafarers are returned to their home ports, the availability of suitable duties in some locations, as well as access to skilled rehabilitation providers can be limited. These are all factors that present difficulties and challenges to the industry.

What we're going to do is assemble a panel that has been selected to provide various perspectives on return to work matters. I'll quickly introduce them to you and invite them to come and take a seat at the table here.

Panellists Welcome

Firstly, Michael Clinch, who is the General Manager of Employee Relations at ASP Ship Management and for a long period of time has had strong interest in IR and HR roles within the company.

Secondly, Martin Byrne, who is the Assistant Federal Secretary of the Australian Institute of Marine & Power Engineers. He's been involved with seafarers' compensation matters since the 1980's and has participated in the establishment of the Seacare Scheme. Martin's been a Member of the Seacare Authority since 1996 and, if I may say, a very valued Member of the Authority.

The next panel member is Melanie Parker-Doney, who is the Director of MP Safety Management, a rehabilitation provider. She has worked extensively in the maritime industry over the last 10 years and has sailed on many vessels to gain a better understanding of the physical and psychological requirements of the work environment.

Next is John Trungove who works for Marsh Risk Consulting providing consulting services on Seacare matters. He's worked on seafarers' compensation since 1993 in various organisations dealing with compensation matters from insurer, legal, broker and risk consulting perspectives.

Next we have Dr Robert McCartney who is the National Medical Director of Health Services Australia. He is a consultant to many employers and insurers specialising in fitness for duty assessments in the transport industry covering road, rail, air and sea.

Then we turn to Mark Eldon-Roberts, who's Manager of Ship Operations and Qualifications, Australian Maritime Safety Authority (AMSA). AMSA is, of course, a partner with Seacare and their CEO Clive Davidson, is a Member of the Authority. Mark's section is responsible for issuing a range of licences and documents for seafarers and for receiving all incident and accident reports from ships.

And lastly, the Moderator of the session is Peter Leslie, of that very well known legal firm of Middletons in Melbourne and Sydney. He is a former partner of mine and I'm now one of his consultants. I would get the sack if I don't give a plug for what a great firm Middletons are. Peter to my knowledge, has had 30 years of experience as a Litigation Lawyer. His particular areas of interest are personal injury claims resulting from workplace accidents. He advises Ship Owners, Sea Managers, Ship Managers, Insurers and P&I Clubs and is very well qualified to look at the legal aspects of the claim. I'm going to ask Peter if he would act as Chairman of the session.

We were hoping to have with us Geoff Donovan who would speak to us from his perspective as an injured seafarer returning to work, but as often happens in these matters, Geoff is at sea and the voyage has been delayed so he can't be with us.

Similarly, Peter Bremner from CSR Shipping was going to be part of the panel but he's been involved as a matter of urgency on some project and he can't come down from Sydney to join us, so that's unfortunate, but we have a very distinguished panel. A panel of great experience and expertise. I'll ask Peter if you would get underway with the panel discussion.

Thanks Pete.

PANEL DISCUSSION

Peter Leslie, Moderator - Thanks Geoff. I'm going to sit because I've noticed they've designated an hour and a half and I'm not going to stand for that long.

Welcome to all of you. The topic as you know is "**Return to Work under the Seafarers Act**" and today's special subject is Ronald Howard. He's a 45 year old Integrated Rating. He is married to Janette, they have 1.7 children, they live in a very small town north of Newcastle and they have a mortgage. Ron, as he likes to be known, is employed by Stillwaters Shipping, a Melbourne based company which owns and operates two ships. He serves on the good ship, *Happy Days*, which is a bulk carrier.

I'll now take you to somewhere off the North West coast of Australia. The *Happy Days* is encountering appalling weather conditions, high seas, torrential rain, and at about 6:00pm last night, Ron was found at the base of external stairs and he'd obviously fallen down the stairs and sustained serious injuries. It's a fracture of his right leg, tibia and fibia are protruding. He is semi-conscious. He complains of excruciating pain in his back, referred pain down both legs and he says he's also got some tingling in his toes.

Michael, you're the CEO of Stillwaters, you're sitting at home and you're having a well deserved glass of 2003 Boomerang Bin Number One Shiraz and you're about to watch Master and Commander, your favourite film. How do you learn about this incident?

Michael Clinch – What would have occurred is the Master would have contacted the designated person within the office, and then for a serious incident like this, the designated person would contact the CEO.

Peter Leslie – It's clearly serious. You know the Master of the *Happy Days*, Captain Baines. Are you going to ring him?

Michael Clinch – As the CEO I can make the decision to contact the Master. I contact the Master to ascertain the situation and to get information from him of what assistance if any, as it's unknown at this stage, what is required.

Peter Leslie – Well he says it's urgent. He doesn't want to move him. He's worried that his back condition is terribly serious. They can't handle it other than on a first aid basis. He needs medical assistance. What do you do in that situation?

Michael Clinch – In that situation we would contact a doctor, the company doctor, and get them in contact with the vessel to advise the Master on what action needs to be taken.

Peter Leslie – Robert, you're the company doctor. You've had a call from Michael. He's given you the number of the Master and you ring him. What do you learn?

Robert McCartney – Well we get a good history on the nature of this fellow's symptoms. Obviously it's very difficult to do a consult over the phone and to get a clear idea of the nature of it. But, from what you've explained here, he's obviously got a compound injury to the leg, a pretty severe injury to the lower back and at least a minor to moderate head injury. So he needs to be immobilised and given some analgesia and evacuated from the ship.

Peter Leslie – He can't stay on the ship?

Robert McCartney – No.

Peter Leslie – Nearest port is Wyndham. There's a hospital there, fairly basic. Do we aim for Wyndham?

Robert McCartney – Well, given that he's got at least a compound fracture and probably something nasty going on in the back, I think he does need to go to the nearest available, at least secondary medical centre, where he can be given proper analgesia and to make sure he's dynamically stable. I'd be aiming for the nearest place which would be Wyndham.

Peter Leslie – Michael, have you got any experience in your company regarding medical evacuations from ship at sea?

Michael Clinch – No we don't. We would be making contact with AMSA to seek some assistance.

Peter Leslie – Mark, what can you do?

Mark Eldon-Roberts – What would probably happen is AMSA would have been notified through the RCC, Rescue Co-Ordination Centre in Canberra, and they'd mobilise what assets they could in the area. They'd probably, if the ship was a distance of the coast, ask that the ship move towards a rendezvous spot which the asset can reach.

Peter Leslie – What other interest does AMSA have in what's happened?

Mark Eldon-Roberts – We'd expect, the procedure is, an incident alert to be sent to us within four hours of the incident and a full report within forty-eight hours. From our perspective as a regulator we'd be looking at the Occupational Health and Safety side. There's the Occupational Health and Safety (Marine Industry Act), which as a regulator, we'd enforce. When the ship finally came to an Australian Port, we'd send one of the investigators down who's trained in Occupational Health and Safety to investigate the incident. From there the process would be full investigation and to look at any breaches of regulations and, if you take it to the ends degree, it could result in a prosecution.

Peter Leslie – Martin, you're sitting at home, you've just opened a cask of red and you're about to read the Latham dairies. How do you learn about these sorts of incidents?

Martin Byrne – So I'm not a Chardonnay socialist then? Well there's a number of things that we need to do. In the first instance I'd probably be in receipt of a phone call, using a mobile phone if the vessel was in range, from the delegate. There'd be a number of calls that would need to be made arising from that. We would want to establish communications from the company as early as possible to make sure that they knew that we knew about it and we were watching them.

Peter Leslie – Well Michael's at home, you can give him a ring?

Martin Byrne – Well if I've got his number or the relevant officer within the Union who deals with that vessel would probably be the one who would make that call to the Officer of the Company who runs the day-to-day operations. Given that it's a Newcastle home port we're talking about, you'd also want to have the Branch Official in the home port Branch to be advised. That's not necessarily so urgent if the vessel is in Western Australia. You'd probably have the local Branch Office looking after it in the first instance, if that's where the problem has arisen.

Peter Leslie – Ron's wife Janette, she's rung you. She wants to go to be with Ron. Will the Union fund her travel expenses?

Martin Byrne – That wouldn't be the role of the Union to make that type of a funding arrangement. But we would be assessing the situation and depending on how long he was going to be in Wyndham, or if he was going to be transferred to another location immediately, then there may not be any point. It may take longer to get her from Newcastle to Wyndham, then he would be ashore in Wyndham, so it's going to depend on time factors. The tyranny of distance is very much a real factor here. If it became apparent early on that there was going to be a relocation out of Wyndham and with the severity of the injuries that might be an earlier expectation actually.

Peter Leslie – He's been evacuated. They've taken him to Wyndham. You've seen him Robert, what's the diagnosis?

Robert McCartney – Well I thank the company doctor for doing such a good referral letter. I've assessed him and he's got a compound fracture which is being reduced and we've had the back slabbed because we can't fix it in this small facility. From the lumbar spine point of view, we think he's got an acute prolapsed disc down in the lower lumbar region and he's got a closed minor head injury. So we've given him strong analgesia. We've back slabbed his lower limb, we've got him comfortable and now he needs to be transferred to a better facility where he will probably need to undergo trauma orthopaedic surgery. We're going to transfer him to Darwin Hospital.

Peter Leslie – How are you going to do that? Fly him?

Robert McCartney – I'm not sure where Wyndham is, where's Wyndham?

Peter Leslie – It's the northern most town in Western Australia, it's about three hours from Kununurra.

Robert McCartney – Oh okay. It's always better to use road. There's nothing urgent now regards time, so road is always safer. So as long as there's a reasonable road we'll use an ambulance and get there within a few hours.

Peter Leslie – John, you're the Claims Consultant for Stillwaters. You've had a call from Michael, he knows they're going to get a claim, but he wants to know what the obligations are?

John Trungove – The first thing I'd ask is when did this happen? I'd make sure that all the things have been discussed so far have actually happened, and I'm being apprised that it's likely to be involved. I'd say okay it's time for early intervention as well. We'll worry about getting claim forms to the right people later so long as you give me all the contact numbers and things like that. I'm about to go and ring Melanie and tell her to make contact to get arrangements to meet the person when he gets to home port.

Peter Leslie – Stillwaters has a deduction of \$100,000; do you notify the insurer at this stage?

John Trungove – Well at the moment it's looking like it's going to be a big case, so we'll bring them in the loop and just let them know, but nothing more at the moment.

Peter Leslie – Martin, the *Happy Days* is now a man short, are you going to let Michael off the hook and let it finish its voyage short-handed?

Martin Byrne – That would have been one of the additional issues raised by the delegate in the first phone call. We'd be wanting to get a relief next port. We'd need to look at the trading pattern where the vessel was heading and whether a relief could be sourced in that port or whether Ron's opposite number would have to come back early to fill that slot.

Peter Leslie – Melanie, you've been contacted by John. What's your involvement at this stage? It's very early, we're only a few days after the incident, is it premature for you to be involved at this stage?

Melanie Parker-Doney – I don't think so. I think it's very important at this stage that we develop contact with Ron if he's had his trauma surgery. We can probably make contact with him on the telephone; also liaise with the company about the whereabouts of his wife and whether she's actually travelled up to Darwin to spend some time with him. If that's the case, speaking to her about what's happened and to her seven children in Newcastle. You said seven?

Peter Leslie – No 1.7, it's a very average family.

Melanie Parker-Doney – Okay so she mightened be too bad if she's only got 1.7, not seven. Certainly talk to her about how she is. Talk to the Registrar at the Hospital about planning for travelling back to a local facility for his rehabilitation. We can either do that in teleconference or certainly in the past, we've just got on a plane and gone up to Darwin.

Peter Leslie – How do you see your role Melanie? Are you the advocate or the employer or a middle person in all of this?

Melanie Parker-Doney – We see ourselves as the middle person. We act like a co-ordinator. Certainly an advocate of the worker, okay, to help them through the process. Help them understand the way the process works and to ultimately maximise their function and their ability to return to work.

Peter Leslie – Michael, you've only a small company, you've got no representative in Western Australia, what do you do? Does Stillwaters arrange for a company person to travel to Wyndham?

Michael Clinch – Most definitely we would arrange for a company representative to travel to Wyndham and be with Ron.

Peter Leslie – Martin, is that important? You've seen enough people injured over the years. How important is it that there is that immediate contact by the company?

Martin Byrne – Well Wyndham's not the biggest port in the country and it's actually been a difficult port for us to organise in recent years. But we would try to organise to have a local official involved as well to make contact, either a personal visit or at the very least a telephone call.. We would want to be reassuring Ron that we're on the case, we know what's happened, and we want to make sure that he is looked after properly throughout the coming weeks and months.

Peter Leslie – Mr Howard is not doing so well, he's now in Darwin. He's back condition is serious, he needs surgery. Robert, you're the head doctor there, what are you going to do?

Robert McCartney – Well the orthopaedic surgeon, Dr. Ralph Mouth, is going to look after him and it looks like he's got an acute prolapsed disc with a fracture. Because there's some nerve irritation they're going to have to reduce that and stabilise it. He'll certainly need open reduction and fixation of his compound injury to his lower leg, so he's going ahead to have the surgery.

Peter Leslie – So how long will he be in Royal Darwin Hospital?

Robert McCartney – Well, if there are no complications to either surgery, it should only be for about ten days.

Peter Leslie – So he's looking to be discharged after ten days to where, Newcastle Hospital?

Robert McCartney – Well, the public hospital will just be discharging him. He won't need to be an in-patient there but he will need ongoing outpatient care. He can get the outpatient care in Darwin, there's no problem with us delivering it there, but for his own family reasons whatever, he may wish to be transferred back down to his home town.

Peter Leslie – I didn't tell you that he's actually now being diagnosed with DVT, before he leaves Royal Darwin. Is that serious?

Robert McCartney – It can be. It's a recognised and not an uncommon complication of any lower limb surgery and back surgery, so long as it's limited to the calf it's fairly low risk.

Peter Leslie – And how's that treated?

Robert McCartney – You can either not treat it which is becoming more and more common, or you can warfarinise which is 'thin the blood'.

Peter Leslie – Can he fly to Newcastle while he's on warfarin?

Robert McCartney – You can fly while on warfarin, but in the acute stages after all of his surgery, he'd be better off not flying. You shouldn't fly that soon after surgery. He can be transferred by road if he wanted to go to Newcastle.

Peter Leslie – He's there a bit longer at Royal Darwin and he's not progressing well. The orthopaedic surgeon thinks he needs to go back and re-operate, he's on warfarin. Can we operate?

Robert McCartney – You'd have to. Again, I'd have to bring in the particular specialist in that field who would [unfinished sentence].

Peter Leslie – Well it thins his blood doesn't it?

Robert McCartney – Yeah.

Peter Leslie - So he might bleed to death?

Robert McCartney – Well, you tend not to bleed to death. You can have lots of complications after the operation because you bleed into the wounds, because there are other ways that bleeding stops in the body. But the plan would be that you have to stop him bleeding. You'd have to de-warfarinise him, get him back to his normal coagulation state and then you could do the surgery. It could be done.

Peter Leslie – So Ron's had another bout of surgery so he's extended his stay in the Royal Darwin. John, what are you doing at this stage for him?

John Trungove – Well I haven't just been sitting waiting there. Melanie's got back to me and we're discussing the likely outcome of this claim long-term. At this stage, it's fairly clear that we're going right over deductible. We've contacted the insurer, I've arranged a formal, rather than the initial, contact referral for rehabilitation and we have instructions for the next initial assessment and any recommendations to me. While our man is still in Darwin Hospital, he's got no problem about his coverage, he's protected. There's no claim issue, there's nothing like that.

Peter Leslie – He hasn't put a claim in John?

John Trungove – He hasn't put a claim in for comp, but he's covered under the Navigation Act until he gets to home port and, in relation to wages, for three months. At the moment we're not looking at running up against either of those, the policy is covering that anyway. We're treating it all as one, so that's why the insurer has been notified.

Peter Leslie – Martin, is this a beef of yours when someone is unable to sign a claim form?

Martin Byrne – There's obviously alternatives if the injured person is not able to sign a form themselves and wife Janette at his bedside should be in a position to be able to sign on his behalf and lodge the form. In fact, we've had a hysterical call from Janette about the possibility of a flight south to Newcastle in the circumstances. As a result, we put in a call to Michael saying that he shouldn't move Ron in the circumstances, that he better leave him there and he get Janette a form so that it can be filled in pronto, because we're not happy with letting the situation slide. The Navigation Act provisions are useful but limited, and we want to get the full protection of the Seacare system as soon as possible.

Peter Leslie – Section 49 of the Act says, that you have to arrange an assessment within twenty-eight days, or if someone's incapacity lasts twenty-eight days or more. Melanie, how often do you get a referral within the twenty-eight day period, in your experience?

Melanie Parker-Doney – It depends very much on the relationship with the employer and how proactive they are with return to work. Those that we work with quite closely, I would say in ninety per cent of the cases, we are getting referrals within that twenty-eight day period.

Peter Leslie – How important have you found it to have that early assessment?

Melanie Parker-Doney – Absolutely crucial. Like what John was saying, in this kind of situation being involved right at the time of injury gives us the opportunity to develop a strong relationship with that person and ensure that in our role as co-ordinating all this kind of stuff, that person gets the best quality medical help. They've filled out their forms, and their families are looked after.

Peter Leslie – But you can't do an assessment at that stage as to Ron's ability to undertake a rehabilitation program. It's premature in that sense isn't it?

Melanie Parker-Doney – Correct, yes, but morally and in the spirit of the Act our involvement at that level, working with the Registrar and his wife and any medical people involved, certainly to look at discharge planning from that facility and as soon as is medically practicable moving him to his home port, so that he can start to receive appropriate rehab close to home is the goal.

Peter Leslie – Have you met Ron yet?

Melanie Parker-Doney – Yes, I would have flown to Darwin and met Ron and Janette.

Peter Leslie – How's his attitude to things? Is he scared?

Melanie Parker-Doney – Yes he's very scared. He's just had three bouts of surgery, he has a DVT, his wife's quite distressed. The children are still back in Newcastle with grandparents.

Peter Leslie – He wants to see the children. Mike, will you arrange for the children to fly up there?

Michael Clinch – Yes, we'll arrange for the children to fly up there and visit their father.

Peter Leslie – Weekend visit?

Michael Clinch – Yes.

Peter Leslie – Mark, do you have any other role to play at this stage?

Mark Eldon-Roberts – We mentioned the Minimum Safe Manning Certificates so we would be ensuring that the ship was safely manned with a minimum number. There is a certain amount of latitude that we can exercise, but it depends very much on the availability of a relief. We may allow the ship to proceed to the next port after Wyndham in a reduced manning, but we would monitor that situation.

Peter Leslie – Ron is eventually transferred to Newcastle Hospital. There's still concerns about his back condition. Melanie, you meet him again and you carry out that assessment under Section 49. Do you do it with Ron by himself, or are you concerned that Ron should have some representation?

Melanie Parker-Doney – It's completely up to Ron really.

Peter Leslie – Ron wants Martin there?

Melanie Parker-Doney – Yeah that's fine.

Peter Leslie – Does that cause you any concern?

Melanie Parker-Doney – No, no concern whatsoever.

Peter Leslie – And Mike wants to have someone there from Stillwaters? Doesn't concern you?

Melanie Parker-Doney – If the room starts to get too full of people, it can be difficult to do the assessment, and certainly to keep Ron focused on what needs to be done. I would be looking at ascertaining why all these people need to be in the room and if Ron has any issues about where I'm coming from or my impartiality to the process, then making sure they're dealt with so we can get on and do the assessment.

Peter Leslie – You've assessed Ron as capable of undertaking a program, but what sort of a program would you have in mind?

Melanie Parker-Doney – Initially, we'd be looking at getting him to the point where he can independently get home from an in-patient service to an outpatient service. We would certainly be working very closely with his wife. Looking at his home environment as well and assessing that and any needs that he might have so that he can be independent as possible. Accessing various parts of the house so looking at access issues, ability to complete activities of daily living we call it, so toileting and showering and things like that.

Peter Leslie – John, have you consulted with Ron as to your choice of Melanie as the provider?

John Trungove – At this stage I actually haven't met Ron or even had the opportunity to speak to him. I'm quite content to go ahead in the first instance with Melanie as the provider. However the sooner I get to understand Ron's attitude and situation, and more than just making sure that claim form's come back or anything like that. If there are any issues with Melanie I will attempt to resolve them before forcing the continuation of the relationship.

Peter Leslie – Melanie, how often is there a consultative process in the selection of the provider, or is it more often the case the employer simply nominates the provider?

Melanie Parker-Doney – In my experience the employer nominates or the referral comes from the insurer and on occasion it's actually come from the Union.

Peter Leslie – Are you concerned Martin, by that? Or do you have confidence in the Accredited Providers?

Martin Byrne – There have been providers that we're not happy with around the country. We've got a list that we circulate to all the Branch Officials. If we get any word that any of those people are being used, then we will take steps to intervene and exercise the rights of the seafarer to be involved in that selection of the provider, as well as the issue of detail of the plan.

Peter Leslie – Ron's expressed some concerns that he's not sure Melanie is going to back him to go back to sea. What do you do about that?

Martin Byrne – Well Melanie's not in our black book. So we'd reassure Ron that he is in good hands in terms of the quality of care being provided. Ron has been at sea as an AB and then an IR all his working life. It's what he has done and what he knows and what he wants to be able to continue, if at all possible. So we want to make it very clear both to the company and to Melanie, that's Ron's objective and we won't be backward in letting those people know that's the view that we're taking on this.

Peter Leslie – How do you gain Ron's trust, Melanie?

Melanie Parker-Doney – Well, I would certainly be looking at if that is his goal at this early stage, that's the goal that we would be working towards, is for return to work at sea.

Peter Leslie – Would you be liaising with his treating doctor?

Melanie Parker-Doney – Correct.

Peter Leslie – Robert, you've talked to Melanie. What are you telling Melanie about Ron?

Robert McCartney – Well I think we've always got to be ambitious and optimistic even though the injuries are quite severe in the first instance. The goal is always to return people to a full recovery and to return to full duties, so I'd be making it clear to Melanie, these injuries are quite severe and given the inherent challenges of this job, it may well be that he will be left with some impairment, which may exclude him from the best outcome. But we should be optimistic and give it everything we've got with regards to rehabilitation in the first instance.

Peter Leslie – Ron's now been discharged home but he lives in a fairly remote part of the world. Melanie you can visit him?

Melanie Parker-Doney – Yep absolutely.

Peter Leslie – You work in Sydney?

Melanie Parker-Doney – Yep.

Peter Leslie – How do you do that? How frequently have you got to make that contact?

Melanie Parker-Doney – It would depend. Looking at the situation, I would probably meet him fortnightly in Newcastle where he was receiving outpatient treatment so I could catch up with the treating Medical Officer and we could case conference on a fortnightly basis, where he's at. I would certainly, after he was first discharged home or prior to being discharged home, spend time with Janette in the home. We would have organised any equipment needs and things like that to maximise his level of independence, and I would be reviewing that as well within the first couple of days. Often the outpatient clinic will also have a discharge service that we could tap in and use as well. He may require nursing care, so a Community Nurse to come and visit him if need be, if he needs assistance with toileting and showering, to help Janette out.

Peter Leslie – Mike, what are you doing at Stillwaters? Are they making contact with Ron? How can you do that, you're in Melbourne, he's north of Newcastle?

Michael Clinch – We would have our Return to Work Officer stay in regular contact with Ron. It might be regular visits, and also by telephone and keeping Ron up-to-date of what's happening within the company.

Peter Leslie – How important is that Martin, that sort of contact from the company?

Martin Byrne – I think it's a vital ongoing part of the process. Where we've got a bit of a concern though, is that Michael's Return to Work Officer has sent this letter in legalese saying that now the Claim Form has been submitted, the company accepts liability, but he's got twenty-eight days to appeal against his decision, and Janette's gone crazy about this letter. Why would he appeal against the decision? It's a stupid letter, and we rang Michael and said "What the bloody hell you're doing sending these letters?"

Peter Leslie – No John wrote the letter.

John Trungove – It's not my letter.

Peter Leslie – John, no, you wrote it. It was your letter John. It was your letter.

John Trungove – Somebody's taking it out of the envelope and substituted something. I'm available to speak to Ron, Martin, Janette to set their minds at ease about this, to explain the basics of their entitlement, what they're guaranteed and to reassure. You've got to provide a reassurance at this stage that everything is okay. We want to help. We want to get you back to work. The company has to do that and I'm recommending that to the company. I also need to know if he's got any questions, anything else he wants, how's he going with the rehab provider and so on, and this is your claim number, this is my phone number, this is my fax number, this is my mobile number, spread it around.

Peter Leslie – Melanie, Ron's able to try now, we're three months down the track. What are you proposing for him? He clearly can't return to work. What are we going to do to keep him active?

Melanie Parker-Doney – Ron's getting really bored at home so he'd like to do something. The doctor's telling me that he's not yet fit to actually go onboard a vessel in any capacity, but he might be fit to participate in a training course or something like that. There's a very good TAFE in Newcastle which runs a lot of programs for seafarers and tapping in through the Union, we're able to find a short course that Ron can participate in. Start initially looking at some home based stuff, learning some computer systems, things like that, and then upgrading so he's okay.

Peter Leslie – Ron's pretty resistant. He finished Year 10, so it's a brave new world out there. How do you persuade him that it is in his interest as a seafarer?

Melanie Parker-Doney – Okay, a lot of the ships are moving to more computer based systems, so even as an Integrated Rating they're having much more exposure to computer based programs. Even if it's computer based training. A lot of employers are using Self Help modules on computers and I would encourage Ron in that direction, also talking to him about his rehabilitation prospects long-term. We would certainly be starting to look at that.

Peter Leslie – What's he telling you? He wants to go back to sea?

Melanie Parker-Doney – He wants to go back to sea. "I want to go back to sea, Melanie; I've worked out at sea for 30 years". That's my goal, that's my objective. I would be talking to him at this stage about some of the things that we could perhaps do to facilitate that. Like upgrading his tolerance for activity through using this training course as a way of giving him something to do, giving him something that upgrades his tolerance for several hours work to begin with. I would then be talking to him about and the company, obviously about some of the options that we could look at down the track, like supernumerary onboard, supernumerary alongside, if the ship was alongside or in dry dock or those types of things.

Peter Leslie – Mike, your deduction has now exceeded the cost of the evacuation which is enormous. Are you concerned anymore? It's not your money; it's the insurer's money. Does Stillwaters have any ongoing concern?

Michael Clinch – Yes, we definitely do because the ultimate goal is to get Ron back to work in a fit and well state. That's the ultimate goal and as part of that journey in endeavouring to get him back to work, we may consider putting him in some administrative roles, whether that be in our office which is too far away so that's not going to happen. But we have arrangements with other organisations nationally that we can actually place people into their company free of charge and they can actually give the individual something to do and assist them in their recovery.

Peter Leslie – Martin, Ron's getting his entitlements, is he off your radar now?

Martin Byrne – No. Ron's coming to every monthly stop work meeting and getting in our ear after the meeting. What we've decided to do, in consultation with the Branch Secretary is to get Ron co-opted onto the Committee for Your Rights at Work Campaign and he's going to be communicating with all the Members in the targeted seats in a Branch area.

Peter Leslie – Robert, what are you telling Ron? Are you giving him hope that he can get back to sea. Do you think it's a realistic goal?

Robert McCartney – In a role as a treating General Practitioner, the obligation is on the holistic care of Ron and holistic care under the World Health Organisation is more than just about health, it's the whole package, including financial well-being and psychological well-being and he sees himself clearly as a seafarer. So you have to handle this carefully as a treating practitioner. Sometimes there's a place to be just forthright and say "Well the chance of you ever getting back to that job in a full capacity is zero, it's time to move on" and in other times it might be a matter of helping through this stage.

At the end of the day the doctors can only say "well here's what the person is physically and psychologically capable of carrying out without creating an unacceptable risk to themselves or others **and what adaption and reasonable accommodation should be shown**". So I would be starting to help him towards the decision. From what I've seen at the moment he's not going to ever meet those requirements under the Part 9 Marine Orders, start helping him towards the decision that he's not going to be fit to go to sea in the position he was pre-injury.

Peter Leslie – The insurer's getting pretty concerned that they've got a 45 year old man who earns \$70,000 a year; even if Melanie can get him back to gainful employment he might earn \$40,000. They're exposed \$30,000 per annum for 20 years and medicals for the rest of his life. They've got some pretty sharp lawyers out there. They reckon they can get rid of this claim for half that sort of figure, but it's probably worth three quarters of a million as the exposure. Ron's well motivated, he's not interested in that, he's had a few mates that have taken some money and they lost it all. He doesn't see the benefit in doing that. He wants to go back to sea, he's quite adamant. Melanie, he wants to try and get back to sea. Do you encourage him?

Melanie Parker-Doney – At that point, I would have another case conference with his doctor and we would look at what some of the options were. If Ron was still very very keen on the return to work, if it was safe to do so, I would facilitate a supernumerary at sea or alongside would be my preference initially, to get him onboard the vessel and get him starting to do some of his normal work tasks. We would accompany Ron and spend the day with him looking at his job, working out with the Captain how he would fit in. Like I said, my preference would be to be alongside so that if Ron isn't coping we

could take him off the vessel quite easily. I think what Ron would realise, in that time spent onboard, is that his level of function is not such that he can even safely ambulate around the vessel, that he can open and close the doors, step over the storm steps, get around the vessel. He realises after spending a couple of days onboard alongside that he's not going to be able to manage.

Peter Leslie – Mark, how do you feel about supernumerary roles? They're often brought up with a mantra that you've got to be fully fit and you've got a crew there all with their current certificates. I've got Ron looking at being a supernumerary and he's clearly not fit. Does that concern you?

Mark Eldon-Roberts – AMSA's perspective would be that the ship would be fully crewed with fully fit people. If Ron went back as a supernumerary he would be extra to the crew. Our advice to a company would be to ensure that the Return to Work Program is approved by Seacare. It's planned and monitored by a company's insurance company, the medical practitioner approves of the work, and going back onboard as a supernumerary and we'd say to the company to confirm with Seacare that the Worker's Compensation Act is applicable. So from our perspective Ron could go back as supernumerary, but he doesn't form part of a crew, he would be additional and the onus goes back onto the company.

Peter Leslie – What does the Marine Order say?

Mark Eldon-Roberts – Marine Orders is [unfinished sentence].

Peter Leslie – You're reviewing it at the moment?

Mark Eldon-Roberts – Yeah, we're reviewing it, it's not actually clear there to be honest, but providing the guy goes back to sea as supernumerary he doesn't have to be medically fit *per se*. He doesn't need a Certificate of Medical Fitness, because he's actually not forming part of a crew. But as I said, the onus is back on the company to ensure that the guy's not being put at risk, and he doesn't form part of the crew.

Peter Leslie – Martin, what is your Union's view about supernumerary positions?

Martin Byrne – Well supernumerary is just that, it's additional to the specified crew numbers. Our major concern is for the individual and in that regard, we've got to make sure that he's not going to be put in a position where we can aggravate the injury. We don't want a repeat; we don't want him to suffer another injury because he's not able to get around. If he's able to get around, and wants to go back, and he's able to function at least in an adequate capacity around the vessel, and will not be a burden on the rest of the crew, and that's an issue too. Other guys on board aren't going to be able to look after him, they've got their duties to do and they need to be assured as well, that he's going to be able to look after himself in case of any emergency.

Peter Leslie – Are your Members educated in this concept that they need to embrace the idea of someone coming back to work in that capacity?

Martin Byrne – There has been some resistance. You've got to confess, to return to work, coming back supernumerary before being fully one hundred per cent fit and ready to take part in all of the duties, but that is changed.

Peter Leslie – Mike, it's pretty expensive isn't it, supernumerary? I mean you've already got a relief on at the moment looking after Ron's position. What's the cost involved for you if supernumerary it fails?

Michael Clinch – The cost becomes quite expensive but obviously we'd be guided by what Melanie's suggested of what the overall prognosis would be, and where putting him back as a supernumerary actually leads us to, and how long that period of time might be for.

Peter Leslie – Robert, are you supportive of him trying?

Robert McCartney – Absolutely, the evidence is quite clear in all industries and this is no different to all the other industries we look after, that +it's always difficult to find appropriate restricted duties in the workplace, and each occupation in each industry has its own idiosyncratic difficulties. They're all surmountable and all passable and the evidence is quite clear that you make the best recovery back in the workplace. It's the best outcome for all injuries including these severe injuries.

Peter Leslie – John, you're being pressed by the insurer. Are you supportive of this idea of a return to work as a supernumerary?

John Trungove – Totally, although averse to getting the employer in any deeper in case it should go wrong mid-shift. At this stage not only are we being pressed by the insurer, but the insurer's full involvement as well, it's not like most claims which go away before deductible. This one they've been involved from an early stage and they're asking as many questions of me as I would be of the employer and so on. So bringing it to a head is probably the thing that we need to do first, certainly to keep the insurer happy, but also just to make sure that Stillwaters doesn't go any deeper.

Peter Leslie – Stillwaters can't provide that supernumerary position. I only had two ships and it just can't be done, but Melanie, you found another Ship Owner who is prepared to do it, but they want an indemnity, not in relation to any aggravation whilst onboard, but any injury. Michael, do you give that indemnity?

Michael Clinch – I don't think we would.

Peter Leslie – John, would you give some advice to Michael about what he'd do in that situation?

John Trungove – At this point it's a question of saying any other employer would be quite likely to seek contribution from you or anything else that goes on there, no matter what scheme that this alternative placement has compensation cover for. Again the Marine Orders have things to say about things like that. I'd be saying look at your cost options now. If they're prepared to waive the indemnity requirements just take the other risks onboard, but now you're either going to be having an aggravation of your injury on a permanent situation. This bloke's only 48, he's got 17 years of payments.

Peter Leslie – 45?

John Trungove – Well he's got 20 years of payments. How important is your return to work compared with doing it in six month's time, three month's time or retraining him, even if it's training for a safer sea role.

Melanie Parker-Doney – I would agree with that too. I think in this scenario we would be using a supernumerary in a sense to help Ron come to the realisation that his goal to return to work in normal duties is unrealistic. So therefore, it is not something I would investigate asking another Ship Owner to take on that risk so to speak. I believe that the two ships, even *Happy Days*, has to come alongside at one point or another, and I think it would be important, if possible, to use the same vessel, so he's got his colleagues with him. He would feel more comfortable on that vessel. If it's alongside discharging for a day, then I would use that day to take Ron to the ship and spend some time onboard. I think he would realise then that he is not going to even manage the basic day-to-day getting around the vessel, let alone evacuating the vessel in case of an emergency.

Peter Leslie – Ron does gain insight to his condition and recognises that he can't go back to sea. He's devastated by that. It's not unusual, he becomes depressed, he lacks motivation, you're trying to arrange further programs for him. How is he going?

Melanie Parker-Doney – Ron's obviously very distressed that he can't return to sea. It's important that we keep Ron informed about what his options are both from a rehabilitation point of view and through John, also a wages perspective.

Peter Leslie – Ron's wages have just been dropped by twenty-five per cent. His past forty-five weeks so it's a double whammy. Never work again at sea and now he's on three-quarters pay, got a mortgage?

Melanie Parker-Doney – We would be talking to Ron about what his options are, working with the GP's and if he needs any support from a counsellor or using psychological services if need be. Also using the union's resources, you know his mates to talk to him to keep that contact. Also talking to him about successes, you know that we have in the past where people have moved into other areas of the industry. I think Martin's idea to have him assist the union is a really good one. It gives him suitable duties that are

constructive within the industry, keeps his hand in talking to his mates, doing something that is part of what he's done for 30 years. I'd be potentially building on that with Martin and saying okay well how could we perhaps further develop that so he could eventually be upgraded to normal hours. By that stage he might be able to assist in the office perhaps, travelling for a couple of weeks down to, I understand your offices are in Melbourne?

Michael Clinch – Yes.

Melanie Parker-Doney – Yes, so two weeks down in the office, two weeks back at home.

Peter Leslie – How are we going to accommodate him?

Melanie Parker-Doney – We'd accommodate him in a hotel.

Peter Leslie – Janette would come?

Melanie Parker-Doney – It's a normal requirement for an Integrated Rating as part of their normal work duties to be away from home. So we would negotiate that with him and his family, but it's not usually a barrier that we'd come up with.

Peter Leslie – Would you support that Robert, as the treating doctor?

Robert McCartney – Yes I would. You know he's obviously having problems with adjustment and you could almost call it normal adjustment. This is his life altering event and it's not necessarily even a depressive illness where we have a life altering event like our dog getting run over or injuries or loss of job or break up of a family. You have to adjust to it and that takes time, and through that your mood goes up and down, so he's adjusting to it. I wouldn't call it an adjustment disorder, but it might be heading towards it, if someone isn't keeping a close eye on him. The key of course is not to extract him from sea life, which in fact makes it worse, is to continue interacting in all of the activities that allow you to move forward from what was a life altering event. So I think it's a good idea.

Peter Leslie – Melanie, what's your goal now? Are you looking at vocational retraining?

Melanie Parker-Doney – Yeah, our goal would be return to work, same employer or different employer, different job.

Peter Leslie – Michael can't help. Michael's under pressure from his payroll office. They've got him on the books. He is costing them money just by being on the books. They've got a relief there who wants to know whether he can have a permanent IR. He's been pressured, do we terminate? Michael, what are you going to do?

Michael Clinch – I'd be seeking some further advice from John to see what some of the best options are in moving forward and obviously termination would need to be considered as one of those options.

Peter Leslie – Does it help having him remain an employee John?

John Trungove – It helps in that it always remains the redeployment option and the provision of alternative duties. Were he to cease employment, the definitions in the legislation of suitable employment, while not as awkward as Comcare, it's still placing some burdens upon you.

Peter Leslie – You lose your control don't you?

John Trungove – You lose your control, that's the key part, and if the employer's lost control so does the insurer. Now before that, it's time to reassure the employer that if you actually got him in alternate duties somewhere, if he's working full-time, you've lost your seventy-five per cent, he's lost the step down the ladder. It's really, he's working full-time, he's up to a hundred but it's still a make-up issue, but a small amount of make-up pay is nothing compared to full earnings from now until 65.

Peter Leslie – Robert, what are his limitations? What do you, as his treating doctor, believe he will be capable of doing? He's done Year 10 successfully. His only skill really is his labour.

Robert McCartney – The whole concept of sixty-five is an unusual one in occupational medicine. It's obvious an arbitrary number and there are very few people who physically are capable of carrying out all the duties for which they're employed if they have a manual job, until the age of 65. We made up the number sometime ago for whatever reason and the human animal was meant to live to 40 until the last couple of hundred or 500 years. So it's all about change, and from 45 we're degenerating around 30. From 45 onwards, it's really a decreasing function in all of us, so to a certain degree where, I hate to be the bearer of bad news but, in the good old days we could have excess numbers in workplaces so where the productivity requirements as someone got older, they'd just decrease their productivity so we didn't notice it as much. Now we notice it quite clearly when someone can't meet the essential and errant requirements due to age. I think it's very important as a 45 year old man (it says 48) regardless of whether his Porsche driving lawyer tells him that he's going to get him a large lump sum even after his amount is taken out of it. Work offers a lot more than the crass and dollars in the wallet. It offers enormous issues of self-esteem and worth in the community, worth to your family etc, so it's vitally important that this fellow realises that he may well have been a seafarer and that was his life, and he is not now, and he needs to further educate as we all do at every step of our life. We should be looking at further education, and he needs to be at where he's going to work. It may well be with the same employer but it's not as an IR. Well, let's have a look at what you can do, vocational assessments, retraining opportunities and move him forward with the right attitude, and help him with the right frame of mind to say that life is changing, but hopefully for the better.

Peter Leslie – There are no jobs where he lives? He's two hours north of Newcastle. There's no jobs there. What sort of jobs could he do? What are his limitations physically with his injuries?

Robert McCartney – At the moment he's made a reasonable good recovery from the leg but still has a bit of a limp. He has chronic back pain which is often the case with the surgery. We persist with it as doctors, but it doesn't have a good outcome in general. So he's left with chronic back pain, and of those means, and although what he can and can't tolerate is often the individual makes the biggest difference there. It would be wise to restrict him from avoiding any heavy manual work, repetitive bending or twisting of the spine. There are many activities that jar it, which really exclude him from the seafaring work, particularly as we're strictly guided by Part 9, we don't have much leeway on that. What it says is they meet it or they don't, so physical work in its purer sense, he would not be covered to do.

Peter Leslie – Melanie, can you help us? What sort of jobs would you be looking at?

Melanie Parker-Doney – We'd do a vocational assessment and also a labour market analysis. So we would look at matching what the doctors said he can do from a physical perspective, building on the skills that he does have and obviously taking into account what Ron wants. Ron wants to stay with the industry. He's quite enjoyed working with Martin in the Union, although it's kind of been more paperwork based. He realises that gives him a good opportunity of staying in the industry, so we would look at the labour market obviously up near where he lives, which is not on the coast. There are not many roles like that, but in Newcastle we identified several employers, tug boat operators, other shipping companies that potentially have small offices with crewing type jobs that are more administration based.

Peter Leslie – Does Ron need to leave his town?

Melanie Parker-Doney – That can sometimes be necessary.

Peter Leslie – Is that a cost, John, that is borne by the employer under the Act?

John Trungove – Well given that, as Melanie said earlier, he's leaving home for his swings of employment anyway, it's got to be considered in that context.

Peter Leslie – But he'd be working?

John Trungove – Relocation expenses? That's something you'd consider under the rehab provisions whether or not the cost is appropriate and so on. Section 49 and 50 require you to consider certain factors and one of those is the cost.

Peter Leslie – What if I say to you it's not. It's not a cost. Ron can't get any job where he lives. He has to consider relocating?

John Trungove – Well there's still the obligation to help with suitable employment.

Peter Leslie – On the employer?

John Trungove – On the employer and the employer may need to be asked to consider that as part of the discharge of fair obligation.

Peter Leslie – Melanie, Ron's done pretty well on his course. He's become computer literate. He's starting to enjoy that side of it. You've got other contacts. Can we place him in Newcastle with someone you think?

Melanie Parker-Doney – I think we can. One of the things that would be really good for Seacare to look at would be putting together what we call a "Work Trial", where we can utilise another workplace and the liability is covered. I think that's been a huge issue and certainly in the New South Wales' Scheme, for example, it's a massive incentive to other employers to take an injured worker on. WorkCover New South Wales cover the likely, or the unlikely event of somebody being injured. It's a formalised work trial arrangement. Certainly in this case, what we have done in the past, we use our contacts. Maybe there is an offshoot of the company that we can use so that he is still employed with the company, and it's a subsidiary office. Get him in there, developing his skills and even, if it isn't in a permanent role at this stage, gaining the skills, proving to himself that he has the capacity to work a 40 hour week and complete all the physical aspects of the job. Upgrade any other computer training and things like that, that he needs, and also then it gives us an opportunity on his resume to state that he now has these skills. He's demonstrated an ability to complete all aspects of that role, say it's crewing, and then we can help him to actively market himself to new employers.

Peter Leslie – Well you found a bit of luck Melanie. You've actually found a Shipper in Newcastle, and they're looking for someone who's going to be involved in crew changes and doing the stores. Ron's pretty excited. He'd like to give it a go. You can arrange a return to work trial there, again they want an indemnity. John, will you advise Michael to give that indemnity?

John Trungove – As before, I was suggesting that we try and minimise such an indemnity. It's a case of where's the legislative basis for it and it isn't there. Where you can't do something you try to find ways to achieve it. Once again it depends on the coverage of the risk for the employer or the new employer under their State Scheme. Given that, for example, we're in Newcastle and so we're under the New South Wales WorkCover, it's going to have an interest in protecting itself against claims for prior injuries. There's always going to be some sort of risk back onto you, so you know, that's a factor to consider when you say yes or no to an indemnity.

Peter Leslie – Well Michael says it's not his money; it's the insurer's money. Will the insurer perhaps give the indemnity in place of Stillwaters?

John Trungove – I've been putting this insurer through a fair bit in the last year or so. Really it's a simple analysis of cost benefit there and they would really want to be sitting at the table for that one.

Peter Leslie – The trial that Ron has is successful and he enjoys what he's doing, and he's offered the position but he's told he has to move to Newcastle, because he can't drive two hours there and back. Ron's concerned about that. Would you tell him John that if he doesn't take the job the insurer would deem him capable of earning \$50,000 in that position and simply reduce his pay?

John Trungove – If I could, it would be something to consider. However, whether I could is not really whether I wish to is not really important. If he does not want to do it or cannot do it and provide an effectively reasonable excuse as to his ability to do it rather than his willingness, he's going to get out of any enforcement provisions that I try to impose upon him. If however, it is not reasonable it's simply I don't want to leave my place in Newcastle, not because it's my great, great, grandfathers who came out with the Welsh Miners or whatever it is, but I just like it there. It's not quite the same as I'm disrupting everything, it's all my roots, it's the best way of supporting me to work, and even if you have to take me into a hotel in Newcastle most of the time, I don't want to do all of that. It's a question of what's reasonable and not reasonable. If he's not co-operating, see this guy's been co-operating a lot, we've been through a long period of rehabilitation with him, he's wanted to work, he's desperate to work and we haven't been able to give him exactly what he wants. That is going to start weighing upon the minds of any external review body which is dealing with his resistance. So I can hardly turnaround and play hardball now, but we've just been firm all along. So we do consider what's reasonable and we do consider whether or not there is a reasonable excuse for failing to co-operate.

Peter Leslie – Ron takes the position and moves to Newcastle and he wears the cost and that's really where our journey ends. On one level this is a successful outcome for rehabilitation. Ron is back doing gainful work. He's being paid \$50,000 by way of wages, and he's topped up to \$70,000 by way of compensation, but he's not doing what he loves doing being a seafarer. The industry has lost an experienced IR. Stillwaters has lost an employee. The insurers are still paying \$20,000 per annum for the next 20 years plus medicals for the rest of Ron's life. Presume that things might deteriorate Robert? He's going to get osteoarthritis?

Robert McCartney – Yeah, that's distinctively possible if the fracture goes into the knee joint or the lumbar spine.

Peter Leslie – We can't end on any sort of Poly-Anna approach. In many ways this is the best outcome for someone who's had a serious injury. We can't get him back to sea. There's going to be cost, but we have looked and

weighed up both sides, and I think at the end of the day, Ron probably has the best outcome he could get.

Panel Discussion Conclusion

Peter Leslie - Perhaps I could conclude by reading a statement that was made 10 years ago at a conference I attended which said

Achieving the best practice and return to work is based upon a scheme's ability to ensure an equitable balance between the employers and the injured workers' needs. Unless both stakeholders can identify the benefits to them by participating in activities aimed at return to the workplace the process is likely to fail

I think those words probably resonated more strongly now, than what they did 10 years ago.

That is the end of our session.

PANEL DISCUSSION QUESTIONS AND ANSWERS

Geoff Gronow – Well thank you very much Peter and members of the Panel. Are there questions or comments on the discussion that the Panel has had?

Neil Butt – Farstad Shipping – It's more of a comment than a question I guess. I was a bit disappointed that poor Janette wasn't connected either by the Company or the Union pretty early in the piece. Have you got any comments as to why you wouldn't have done that?

Martin Byrne – I'm more than happy to respond to that, because I've got it written down here in my notes, but I failed to mention it.

Neil Butt – Farstad Shipping – The decision to contact the next of kin is very important. I think the way I heard this, she was contacted too early. If she was contacted when the accident occurred while he was still on the ship, who contacted her? Was it by phone? Do you send someone around to the next of kin's place to see them?

Martin Byrne – Putting the hypothetical aside, in some of the situations that I've had limited exposure to, someone from the office has actually contacted the next of kin very quickly after the incident has occurred, and then we provide them with information as it starts to unfold, but it's very quickly that that occurs.

John Trugove – When we were advised, when we were notified, we were told that the wife had already been put up to speed with everything that had happened.

Neil Butt – Farstad Shipping – The next of kin are contacted too quickly when not all of the information is there and also of experience when next of kin has been contacted by phone and the wife's at home by herself or the husband whoever, the partner of the injured person, and the employer has just rang the next of kin, instead of going that one step further and trying to have someone go and knock on the door?

Geoff Gronow – Anything further? Thanks Mick.

Mick Doleman – Firstly, I'd like thank Martin for looking so well after our IR, we appreciate it. It must be signs of greater things to come. My experience, and at a national level, I don't deal with day-to-day compo's, but my experience in the past is that the communication between the doctor, rehab provider, union and company and of course the person themselves is critical in case managing these cases. I just got the impression from the dialogue and the conversation that it was a bit ad-hoc as opposed to having a program of forward momentum, where those parties were communicating on a reasonably regular basis, and that communication in turn from each of the parties for various and different reasons would take place.

From the Union's point of view, the guy gets to understand that he's still connected, or a woman whoever it might be. He's still connected, either jointly between the company, the Union and the rehab provider on the odd occasion so they have the confidence that there is forward momentum and people are working together?

Geoff Gronow – Thank you. Any other comments?

Melanie Parker-Doney – If I can add to that. I think in any return to work plan you've got documented plans that you all agree to. So when you case conference with the doctor you come up with your goal that the injured workers agreed to. In this scenario, the injured worker agreed to return to work in the same job, so even though we realised that it was possibly not going to happen that was our initial goal. So the worker would have received that in writing with the actions that come out of that case conference, so they're constantly informed. One of the things I like so much about this legislation as well is disclosure. Any reports, medical information is quite transparent. We make it a priority to make sure that the injured worker gets copies of all these things and take the time to go through them so they understand the medical lingo of what's happening. That certainly helps the problem like Ron, in realising that a return to work in the same job is going to be unrealistic.

Geoff Gronow – Yes, thank you?

????? - Just getting back to the contact initially from the ship to the shore. Martin, you said you get a phone call from the delegate. What instructions did the Unions give to their delegates to call them and is there a concern that whilst the company is trying to organise a proper notification of the family, that due to the modern communications technology, the family may be informed informally by someone else because of these phone calls ashore?

Martin Byrne – First part of the question. We always try to make sure that if there is any major event or incident onboard any vessel, that the delegate let the relevant branch official know as early as possible, just as a matter of keeping the officials aware of what's going on, whether it's a compo issue or anything else. That's the answer in terms of what's in the policy about communication. We've tried to keep the lines of communication open as much as possible seven days a week. As to the notification, we didn't actually get the call from the delegate in this particular instance prior to the company ringing and advising us.

Geoff could I, while I've got the microphone, could I contrast the saga of Ron Howard and *Happy Days* to a Member of AIMPE by the name of Ken Bannister on the *Oceania Trader*. I think 1987, he had a fall in an engine room, down the engine room stairs, internal not external, while the vessel was being pounded by heavy storms in the South Pacific, he was Medevac through Auckland to Brisbane.

Oceania Trader was owned by a company which was not insured, eventually the vessel was arrested in the Port of Brisbane, but the hospital went to Ken Bannister for \$18,000 worth of medical fees, because there was no cover from the company. A stark contrast to the kind of systematic handling of the incident that we looked at in the hypothetical this afternoon.

Geoff Gronow – Thanks Martin. Yes?

????? - I have another question, going back as a supernumerary, we went across the panel and it was also when it got to Martin that Martin mentioned that the ability to evacuate a ship safely and by himself came of an issue. No one actually evaluated Ron's ability to evacuate that ship in an emergency by himself. AMSA was more interested in whether it was meeting the minimal manning and it wasn't until he got to Martin, that it was actually mentioned. Can I just get something from AMSA, Mark I suppose. What is AMSA's ruling on the ability to evacuate a ship without assistance?

Mark Eldon-Roberts – Can you repeat the question again?

????? - The supernumerary going onboard a ship needs to be able to evacuate a ship without assistance. I would think that would be basic, to go onboard a commercial ship, when you were asked you were more inclined to have your answer aligned with the minimal manning of the ship. Now, where would be AMSA's role or position for a supernumerary onboard a ship that may not have the ability to evacuate and how do you analyse it, how do you determine that?

Mark Eldon-Roberts – Well as I said, when I spoke about it, the onus is on the company. We advise that the supernumerary can be onboard; he doesn't have to have a current medical certificate because he doesn't form part of the crew. The ship should be correctly manned for operations. He can be onboard as an extra, but the company has to ensure that by exposing him onboard a ship, they've taken proper medical advice; they've got a proper regime that he's onboard, so it's not a regulatory responsibility. It goes back onto the company. So the company is totally responsible for putting that person back onboard that ship as a supernumerary.

????? – I just see it's a bit of a hole in this supernumerary thing, because we put him onboard a ship to show him, and Melanie's statement, show him whether he could, his ability could meet his expectations of going back to sea. Surely that's not a safe practice?

Melanie Parker-Doney – That's why we did it alongside and he only spent the day.

David Parmeter – I don't know what the solution is Geoff, I'm just directing that as a real issue that companies have to be mindful of in a case like this.

Geoff Gronow – Thanks David. Any comment from the Panel?

John Wydell – At the time of the accident was Ron breathalysed?

Michael Clinch – Ron would need to comply with all of our policies and procedures. If the policy says he needs to be breathalysed then he definitely would be.

????? – On the ship investigating the accident, do they take photographs and all those sorts of things?

Michael Clinch – Yes, that's my understanding of what happens.

Geoff Gronow – Any further?

Martin Byrne – Well, the delegate intervened there and said there was no indication of any grounds for such a step to be taken. The accident happened in rough weather, it was in daylight hours, it was during the work period, and there was no indication, no fore course, no test.

Geoff Gronow – Thanks Martin.

Eddie Seymour – MUA – Michael, mate, the blokes on his back, he's in absolute pain and you're going to stuff a thing in his mouth, get real.

Geoff Gronow – Peter, is there anything you would like to say in conclusion?

Peter Leslie – I was interested in the panellist discussion for a personal point of view because I deal with the legal side of things and it's fair to say what I receive, are essentially examples of failures. The system has failed, either obviously there are claims where their liability is denied in the first instance, but they're usually claims where everything has failed. What comes through most of the files is there is a degree of anonymity between the employer and the employee, and often it seems to me to be based on what may appear to be very minor things but the comments, even from the group in front of me, is its communication. It's extraordinary how communication is the most important thing, and people feel that they are actually wanted, they're looked after, and it comes out so often in my files that people do not believe that. It doesn't take much in fact, to remind people who enforce it are well regarded, and the company wishes them to get back to work. The communication is the essence and it's very easy to do.

Geoff Gronow – Thank you. It now remains for me to thank our very distinguished panel, Michael, Martin, Melanie, John, Mark, Robert and our Moderator, Peter Leslie. Would you join with me and thank them.