

EKSAMEN I JURIDISKE VALGEMNER

VÅR 2016

Dato: Torsdag 2. juni 2016

Tid: Kl. 10:00 – 14:00

JUS5450/ JUR1450 Marine Insurance

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

Part I. All questions in Part I shall be answered for both Master and Bachelor level

The vessel MS Unlucky was under repair at a ship yard in Norway. During work on the steel in the tanks by the use of cutting torch (device to cut steel by the use of heat) a fire occurred near the bottom of the tanks. The fire was explosive and resulted in extensive damage to the vessel. The cost of repairs was estimated to NOK 25 mill. During the investigations after the fire it turned out that the vessel's crew had breached two procedures in the ship owners Safety Management System in regard to prevention of fire. The procedures that were breached concerned removal of inflammable material when cutting torch was used, and having fire extinguishing equipment in close proximity to the work. The investigation however did not conclude whether the fire could have been prevented or reduced if the procedures had been followed.

The owner of the vessel had effected hull insurance, hull interest insurance and freight interest insurance with AS Insurance on the Nordic Plan 2013 Version 2016. The agreed insurable value under the hull insurance was NOK 30 mill. The total agreed insurable value under hull interest and freight interest insurance was NOK 20 mill.

The owner claimed compensation for total loss due to condemnation, and that AS Insurance should pay out the insurable value under the hull insurance, hull interest insurance and freight interest insurance, in total NOK 50 mill. AS Insurance denied that they were liable for the claim.

Firstly, AS Insurance argued that the owner had breached safety regulations, and thus had no claim against the insurer. The owner denied that there was a breach of safety regulations. The ship's Safety Management Certificate was in order and thus the ISM Code was not breached. Breaches of the individual safety procedures were not relevant. Further, in case there was a breach of safety regulations, the conditions to invoke such breach were not satisfied. And lastly, even if there was a breach, this breach was not made by the owner/assured or anyone that the owner/assured could be identified with.



Question 1: Can AS Insurance deny the claim due to breach of safety regulations:

- a) Is there a breach of safety regulations?
- b) Presuming there is a breach of safety regulations, may AS Insurance invoke the breach?
- c) Presuming AS Insurance may invoke breach of safety regulations, may this breach be invoked against the owner/assured?

Secondly, AS Insurance argued that if there was no breach of safety regulations, they were only liable for the repair of the vessel as the cost of repairs amounted to less than 80 % of the insurable value of the ship under the hull insurance, hull interest insurance and freight interest insurance. The owner/assured claimed that only the insurable value under the hull insurance was relevant, and thus that there was a total loss.

Question 2: Is AS Insurance liable for total loss of the vessel, or for the cost of repairs.

Thirdly, if AS Insurance was liable for condemnation, the insurer claimed that the maximum amount they were liable for was NOK 45 mill. The owner/assured argued that as he had effected insurance for NOK 50 mill and paid premium for this amount, he was entitled to the full amount.

Question 3: Is AS Insurance liable for NOK 30 mill (hull insurance) + NOK 20 mill (hull interest and freight interest insurance).

Part II. Only for Master level

To what extent is cargo insurance according to the Norwegian Cargo Clauses, Conditions relating to Insurance for the Carriage of Goods of 1995, Version 2004, Cefor Form No. 261, effected to the benefit of a third party?

The result of the exams will be announced wednesday 22nd June, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00. After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.

Oslo, 01.06.2016