

***Claims Made!* – Handling Personal Injury, Environmental, and Property Damage claims**



**Federal Bar
Association**



**Federal Bar
Association**
South Florida Chapter

Panelists



Matthew Moeller
Owner/Managing Attorney
The Moeller Firm



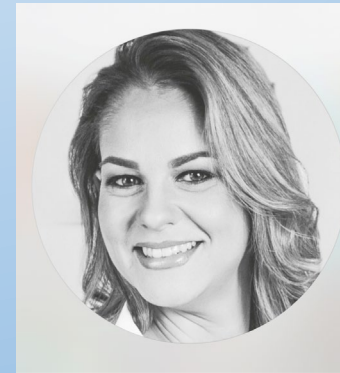
Allison Kelly
Managing Director
U.S. Maritime Consultants



Ryon A. Little
Attorney
De Leo, Kuylenstierna &
Little PA



Oscar Delatorre



Rosalyn Rodriguez

Setting the Stage – What Could Possibly go Wrong?



Let's find out!

Injuries Happen - Crewmembers

- **Jones Act Seaman?**
- **Number of crew injured?**
- **Range/extent of injuries?**
- **Potential medical treatment**



Quick Action!

- **Need to Assess Things Quickly**
- **Identify different levels of Exposure**
- **Global/Gross Analysis**



Injuries Happen - Longshoremen



- **Covered by LHWCA?**
- **Benefits and 905 (b) claim**
- **Range/extent of injuries?**
- **Potential medical treatment**



Review the Complaint

- Is the proper defendant named?
- Status
 - The Jones Act v. Longshore and Harbor Workers Compensation Act
- Removal/Answer/Motion to Dismiss



Oil/Chemical Spill



- **Background Sampling of the Environment**
- **Identification of Receptors (oyster leases, water intakes, marinas, etc.)**
- **Interface with Regulators (state, NOAA, USFWS, etc.)**
- **Detailed Georeferenced Photo Documentation**

Coral – Applicability of Florida’s Coral Reef Protection Act?

- **Florida's Coral Reef Protection Act (CRPA) was enacted in July 2009**
- **The CRPA makes it illegal to anchor on or otherwise damage coral reefs in Florida**
- **The CRPA authorizes DEP to pursue fines and compensation for coral reef damages**



Claims Response to Disasters



- **Hoping for the best (but planning for the worst)**
- **Practicing Responses**
- **Minimize uncertainty**



Potential Criminal Liability?

- **Criminal culpability for direct pollution related acts – 33 U.S.C. § 1319**
- **Criminal fines and potential imprisonment**
- **The failure to report a discharge**



Grounding/Collision

- **What is Underneath the Vessel?**
- **Damage Survey by Appropriate Licensed Experts**
- **Detailed Georeferenced Photo Documentation**



Communication and Relationships Matter



- **Establish rapport with key constituencies**
 - **Federal/Local Regulators**
 - **Federal/Local Agencies**
 - **Businesses**
 - **Key Claimant Groups**

Evaluation of the Claim/Case



- **Review the evidence provided by the Claims Agent/Manager**
- **What witnesses need to be spoken with?**
- **What is the value of this case?**



In any scenario – very important to be site as fast as possible

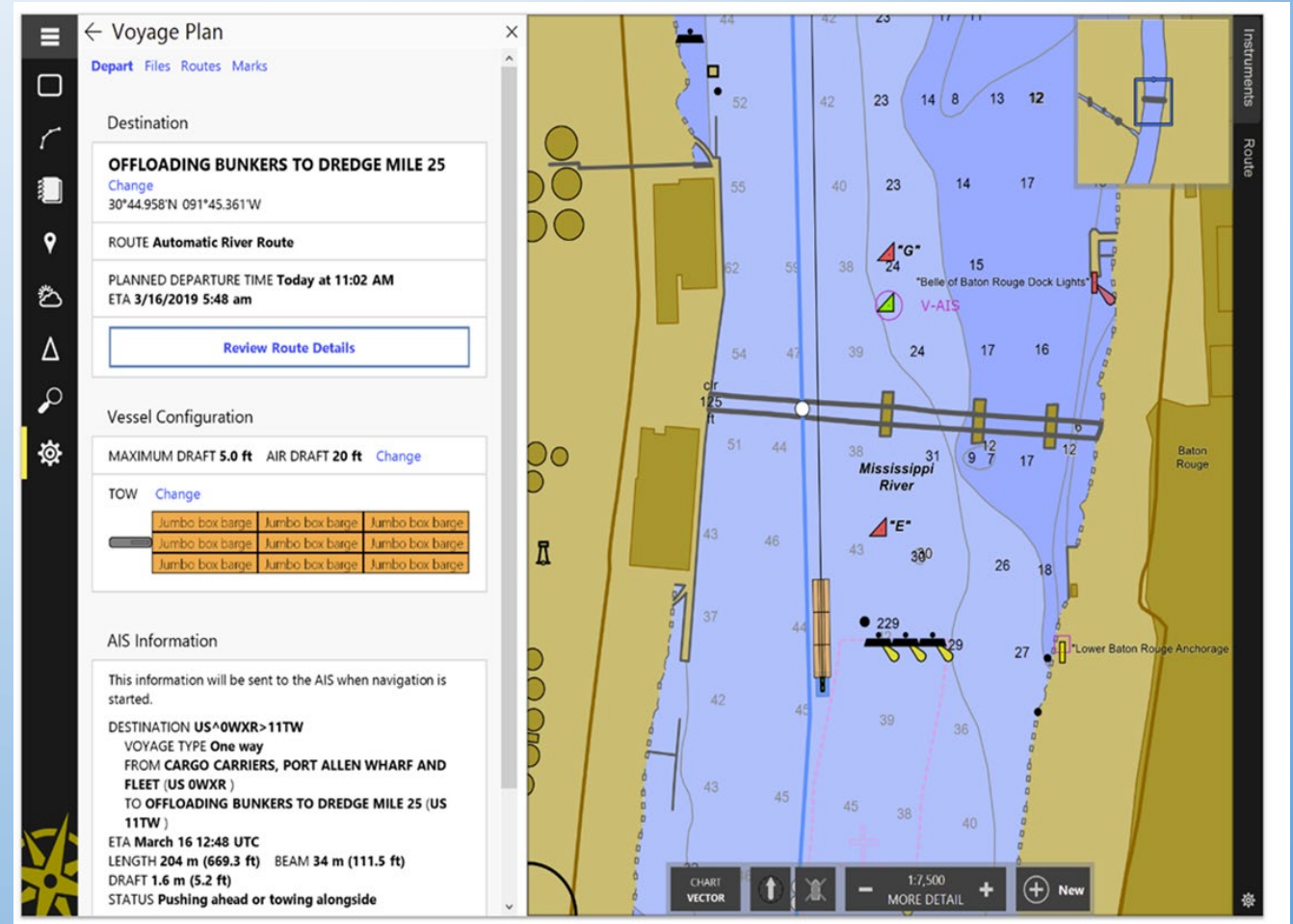
- **Preserve (Forensically Image) Navigation Systems; RosePoint, Nobel Tek, Garmin, etc.**
- **Preserve SAT phone communications**
- **Captain's and crewmembers' Cell Phone and Captain's Computer**
- **Any other Digital device on board**
- **Navigation Systems – which can show date and time, longitude/latitude, headings, speed, and depth.**

Examples of why its important to be onsite ASAP

- Example 1 – We went onsite 8-9 months after the incident. The computer was upgraded and data for the time in question was deleted.
- Example 2 – Not a maritime case; we recovered data from a cell phone where we were able to determine the user was not using the phone when they got into an accident. The opposing side was stating they were on the phone and blaming him.

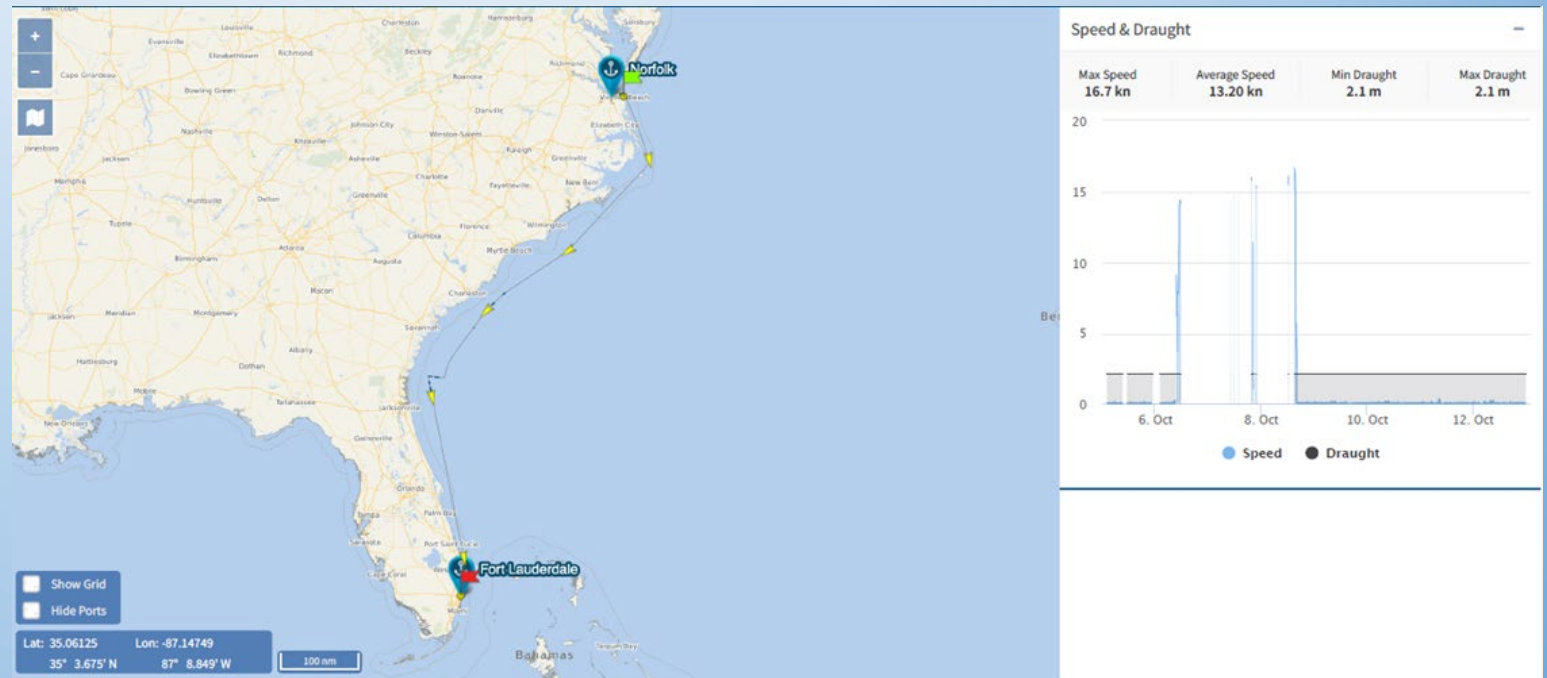
Rose Point System

- Longitude/Latitude
- Departure Date and Time
- The right side shows the depth of water

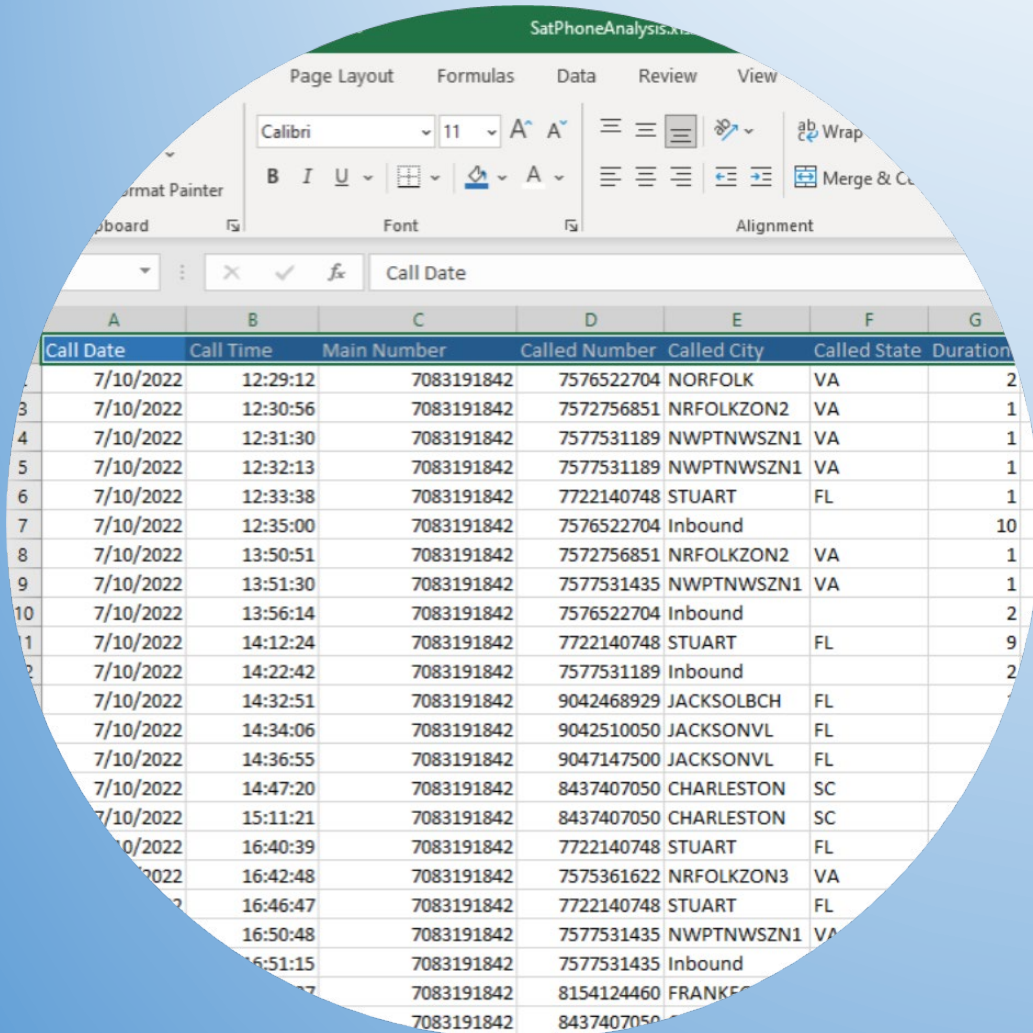


Nobel Tek System Analysis

- **Departure City**
- **Route**
- **Average Speed**
- **Heading**
- **Destination**



SAT Phone Analysis (Just like a Cell Phone)



The screenshot shows an Excel spreadsheet with the following data:

Call Date	Call Time	Main Number	Called Number	Called City	Called State	Duration
7/10/2022	12:29:12	7083191842	7576522704	NORFOLK	VA	2
7/10/2022	12:30:56	7083191842	7572756851	NRFOLKZON2	VA	1
7/10/2022	12:31:30	7083191842	7577531189	NWPTNWSZ1	VA	1
7/10/2022	12:32:13	7083191842	7577531189	NWPTNWSZ1	VA	1
7/10/2022	12:33:38	7083191842	7722140748	STUART	FL	1
7/10/2022	12:35:00	7083191842	7576522704	Inbound		10
7/10/2022	13:50:51	7083191842	7572756851	NRFOLKZON2	VA	1
7/10/2022	13:51:30	7083191842	7577531435	NWPTNWSZ1	VA	1
7/10/2022	13:56:14	7083191842	7576522704	Inbound		2
7/10/2022	14:12:24	7083191842	7722140748	STUART	FL	9
7/10/2022	14:22:42	7083191842	7577531189	Inbound		2
7/10/2022	14:32:51	7083191842	9042468929	JACKSOLBCH	FL	
7/10/2022	14:34:06	7083191842	9042510050	JACKSONVL	FL	
7/10/2022	14:36:55	7083191842	9047147500	JACKSONVL	FL	
7/10/2022	14:47:20	7083191842	8437407050	CHARLESTON	SC	
7/10/2022	15:11:21	7083191842	8437407050	CHARLESTON	SC	
7/10/2022	16:40:39	7083191842	7722140748	STUART	FL	
7/10/2022	16:42:48	7083191842	7575361622	NRFOLKZON3	VA	
7/10/2022	16:46:47	7083191842	7722140748	STUART	FL	
7/10/2022	16:50:48	7083191842	7577531435	NWPTNWSZ1	VA	
7/10/2022	16:51:15	7083191842	7577531435	Inbound		
7/10/2022	16:57:07	7083191842	8154124460	FRANKE		
7/10/2022	16:57:07	7083191842	8437407050			

- Call Date
- Time
- Main Number (From)
- Called Number (To)
- City
- State
- Duration of Call

Let's Discuss!

GROUP DISCUSSION



Thank You!

