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SHIPPING LAW

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Introduction

Established over 40 years, the firm’s Maritime Law Department has developed a well known practice and expertise in all different aspects of maritime related activities such as commercial shipping, insurance, labor law, establishing foreign companies in the marine sector and admiralty litigation. The law firm is proud to have been involved, throughout the years, in several interesting landmark cases before the Admiralty Court.

Additionally, the law office maintains what is possibly the best Yacht Law practice in Panama.

Our maritime clients are based in Panama, London, Tokyo, the East, West and Gulf coasts of the United States, Canada, Hong Kong, Hamburg, Rotterdam, Singapore and throughout the world. They include marine underwriters, shipowners, yacht manager, yacht owners, port authorities, protection and indemnity associations, freight forwarding companies, tug and barge companies, terminal operators, oil companies, brokers, cargo owners, banks and other lien creditors, fishing interests, steamship agents, shipyards, and trading companies.

Pardini & Asociados foremost objective is to provide legal service of the highest quality as judged by our clients. We are committed to working with our maritime clients to develop practical solutions to their legal problems.

Maritime Practice Areas

I. Maritime Litigation	Ship arrest and injunctive relief, Defense of personal injury claims, Bunker claims, Carriage of goods claims, Charter party disputes, Marine insurance and reinsurance claims, Collision, salvage and related marine casualties, General average and cargo transshipment, Shipbuilding, ship repair, ship sale and MOA disputes.
II. Administrative	The law office is well experienced in obtaining permits for companies wishing to establish a commercial presence in the Republic of Panama.
III. Ship & Yacht Registrations	Ship and yacht registration under the Panama Flag.
IV. Vessel Financing	Representation of lenders and borrowers in preferred ship mortgages transactions.
V. Commercial Maritime Transactions	Drafting of charter parties, berthing agreements, stevedoring contracts, contracts of carriage, service contracts for ocean transportation and terminal leases, ship repair contracts, sale and purchase agreements and joint venture agreements.
VI. Labor Relations	Defense claims involving shoreside and maritime labor.
VII. Legal Opinions	Legal opinions on Panama preferred ship mortgages, vessels acquisitions and other matters related to Panama Maritime Law.
VIII. ISM Code	Representation, assistance and coordination in application of code norms with Panama Ship Registry.
IX. Environmental Representation	Immediate oil spill response. Advice on oil spill liability, hazardous materials transportation and environmental compliance. Lobbying and analysis related to proposed environmental legislation affecting our maritime clients.

Ship Litigation in Panama

a. Cargo Claims in Panama: General Considerations

Panama's carriage of goods by sea legislation dates from 1916 when the original Code of Commerce was enacted. Since then its carriage of goods chapter has not suffered any amendments. The Republic of Panama, a strategically located country with a historical tradition for being a passage for the transit of goods and cargo, has elected not to become party to any of the international conventions on carriage of goods by sea. Instead, Panama has preserved the recognition of choice of law clauses and this principle is well established throughout Panamanian civil and commercial legislation and respected in its application, especially by Maritime Court and Supreme Court decisions.

The Panamanian maritime jurisdiction maintains through its Law 8 of 1982 clear rules concerning the applicable laws in connection with claims related to carriage of goods by sea, specifically contained in various sections of Article 557, to wit:

1. Section 3 of Article 557 states that for liens arising from cargo or freight, Panama law will apply, if no choice of law has been agreed.

In this regard, Articles 1510 and 1511 of the Code of Commerce establishes liens against freight and cargo respectively.

Article 1510 states the following liens against freight:

- Judicial recoveries on behalf of creditors
- Recoveries, indemnities, salaries for assistance and salvage for the last trip
- Salaries and indemnities owed to the crew
- Amounts for general average
- Credits on the freight
- Insurance
- Amounts owed for capital and interests against freight incurred by the captain



- Indemnities of freight forwarders and stevedoring services
- Any other debt formally recognized, including ship mortgages.

Article 1511 establishes the following liens against cargo or goods:

- Judicial recoveries on behalf of creditors
- Salaries and indemnities owed to the crew
- Customs and commercial services at the place of delivery
- Freight and carriage of goods costs
- Leases for warehousing of goods
- General average contributions
- Insurance premiums and ship financings
- Capital and interests for recognized debts incurred by the captain against the cargo
- Any other financing with credit against the cargo, if the creditor acknowledges a bill of lading copy.

2. Section 10 of Article 557 establishes that in absence of a choice of law clause, the applicable law for freight contracts and bill of lading will be those of the country where goods were loaded.

3. Section 15 of Article 557 states that Panama law will apply to determine the existence and limitation of liability for cargo owners.

It is worth mentioning that limitation of liability is considered from Arts 560 to 585 of Law 8 of 1982. These limitations are available to salvors and shipowners further to Art 560.

Cargo related claims must be presented within a year of their occurrence pursuant to Art 1651 of the Code of Commerce.

Cargo claims are exclusive of the Panama maritime jurisdiction, and they may be carried against the freight, cargo or vessel through in rem or in personam proceedings.

Our firm has a complete Admiralty and Maritime Practice Team ready and able to assist you on litigation and transactional aspects of maritime related activities such as carriage of goods by sea, marine insurance, bunkers, ship repairs, personal injury, maritime labor law and other claims.

b. Claims before the Panama Canal Authority

Following the 1977 Panama Canal Treaties, entered into between the U.S. and Panama, a transition period began for the transfer of the full administration of the Panama Canal and culminated the 31st of December 1999.

During these past years, several changes have been implemented and others readapted to the new working conditions under the Panamanian administration and legal system.

The Panama Canal Commission, the administrative body of the Canal, has been renamed as Panama Canal Authority ("PCA"), and it is now sustained under a new legal regime, recognised by the Constitution of the Republic of Panama in its Title XVI. Based on the said constitutional body, the new legal regime of the Panama Canal Authority has been developed via Law 19 of 1997 and subsequent regulations issued by the the PCA.

Damages resulting from navigation in the Panama Canal waters, as in the past, remain under the supervision of the Board of Inspectors (BI). Investigations may arise from damages to vessels, cargoes, crew, or passengers arising from their transit in the Canal, whether caused during their passage through the locks or while in the Canal or adjacent areas outside the locks.



Based on the autonomy of the PCA, investigations and claims are handled administratively and through their internal proceedings and regulations. The Board of Inspectors investigations are handled through a hearing process and collection of information process, and as per Art 3, Agreement N° 20 of the PCA its principal functions are:

1. To hear cases of maritime accidents in Canal waters, inspect the vessels involved and investigate the facts, actions or omissions resulting from navigation through the Canal that involve damage to vessels, their cargo, crew, passengers, or Authority personnel or property.
2. Submit a report of each investigation to the administrator, setting forth in detail its opinion on the causes and responsibilities of the accident, as well as the nature and the extent of any current or future damages resulting from the same;
3. Forward a copy of the report to the personnel in charge;
4. Submit a confidential report to the Administrator on the estimated amount, as determined by the Board of Inspectors, of the current or future damages resulting from the marine accident investigated, according to the appropriate assessments.

Any Board of Inspectors investigation and report may result in:

- apportioning liability on the PCA and its personnel;
- if there has been fault or negligence of the ship operator, owner, master, crew, or passengers that contributed to the injury or damage, then the BI may award damages in proportion to the degree of negligence or fault attributable to the owners, crew or passengers; or
- concluding that liability may be attributable to the shipowner, crew, cargo or passengers.

In either of the aforementioned possible conclusions, the Authority may determine the awards, by mutual agreement, commitment or transaction.

One of the major changes brought by the new legal regime of the PCA is that since 2000, dissatisfied claimants or affected parties to a PCA award may resort to the Panama Maritime Courts, which have exclusive jurisdiction over claims for damages arisen from navigation in Panama Canal waters. Appeals are to be heard by the Panama Supreme Court.

Time bar for presenting a claim against the PCA before the Maritime Courts is of one year, to be counted from the notification of the claimant of the final determination made by the Authority.

c. Injunctions requests before the Panama maritime court

In Panama, shipping is one of the most important economic engines of the country. The Canal, the State of the Art Container Ports of Balboa, Cristobal, Evergreen and Manzanillo, the expanding multimodal activities and the ship registry are all factors that are shaping the country into an important maritime nation.

Panama has one of the most important merchant fleets in the world with thousands of ships registered in Panama and flying the Panamanian flag in all corners of the world.

When legal situations arise concerning a Panamanian registered vessel or its owners, operators, etc, Panama Maritime Law (both substantive and procedural) will certainly be under consideration at some point. Many are the occasions where lawyers and clients find themselves trying to find possible measures to pressure and pursue debtors.

In this article, we briefly refer to the injunctive reliefs available in Panama.

The Panama Maritime Procedural Law considers the following injunctions (or “precautionary measures” as denominated by Panama legislation):

d. Injunctions for in rem claims

There are many instances where a vessel or a ship owning company may incur in debts or liabilities which may result in painful hazards for creditors to recover, with the additional pressure for the latter party that most marine related credits and liens in Panama maintain a time bar of one (1) year. Such may be the case when a supplier has been left hanging with a credit, against a vessel whose route avoids choice of law jurisdictions or where no reliable court may be found to enforce the lien.

The Panama Maritime Procedural Law No. 8 of 1982 contemplates the possibility to file injunctions against those Panamanian flagged vessels not transiting Panamanian waters in Articles 168 (4) and 170, third paragraph.

The injunction, when admitted by the Panama Maritime Court, will essentially consist in the recording at the Panama Public Registry of an annotation at the vessel’s property title informing that there is a pending claim and order of arrest before the Panama Maritime Court.

This injunction remedy is contemplated for maritime liens exclusively and its prerequisite is that a claim against a Panama registered vessel must be presented before the court. The effect of the annotation is limited to give notice of the legal action; it does not imply legal arrest, which may only be executed if the vessel is within the jurisdiction of the Maritime Court.



If and when the vessel is physically arrested in Panama an annotation by order of the court will be available whereby the vessel is put out of commerce for the time the vessel remains arrested or until it is judicially sold.

These injunctions essentially serve various purposes, especially when the vessel cannot be physically arrested:

1 - Maintain alive (and stop the statute of limitations) a claim against a vessel before the termination of the one year time bar. Consequently, this permits pursuit of payment satisfaction beyond the statute of limitations

2 - Serve to give notice to other present or future creditors that the vessel has pending claims. By notice of the mere existence of the injunction, potential buyers or financing institutions may preclude themselves from doing business with the vessel or shipowner due to the pending *litis* notification.

e. Injunctions available for in personam claims

“In personam” claims are those maritime originated claims where the creditor may not pursue his claim against the vessel directly, but against the owners, charterers, operators, etc., including any maritime commerce claim which may not necessarily involve a ship.

Article 203 of Panama’s Maritime Procedural Law, may allow injunctive relief to “in personam” plaintiffs. Article 203, as per its drafting (based on its immediate predecessor Art. 558 of the Civil Procedure Code) is very broad in its interpretation and applications.

Article 203, in purpose and definition, may be compared to those established for the “Mareva” injunctions under English Law.



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Fundamentally, Article 203 provides the possibility that a plaintiff may request a precautionary measure (protective, preservative, stoppage) to guarantee and secure the outcome of a judgment until the end of the litigation. These measures may translate for example, in an injunction to stop movement of assets.

The necessary prerequisites to obtain such relief (or precautionary) measure from the Maritime Court are:

1. The previous or concomitant initiation of a claim before the Panama Maritime Court.
2. Prima facie proof of the possible dissipation of assets.
3. Possible existence of property located or registered the Republic of Panama.
4. To comply with a security bond for damages, to be between 10 to 50 thousand US dollars.

In principle, this injunctive relief once approved by the court may serve the same purposes that the one available for the in rem claims.

Both injunctions have the characteristic that when requested the court must consider and decide the claimant's request ex parte. It is also worth mentioning that for in personam claims litigation, the plaintiff must continue pursuing the summoning of the defendant, particularly if the domicile of the defendant is not established in Panama and regardless that the injunction has been effected.

It is important to consider that because of its drafting origins and existing interpretation and application in civil courts (via Art 558 of Civil Procedure Code), Art 203 is subject to more uses in litigation (similar to the Mareva injunction) other than the specific targeted assets of a defendant and it may include requests to impose orders to do, orders to not do, to suspend and others.



f. Interruption of time bars in Panama

Maritime related time bars are regulated in Panama by article 1651 of the Commercial Code which establishes that the general statute of limitations for maritime transactions is of one year. This time limitation is applicable to all sorts of claims, be it in personam or in rem claims, with the following exceptions:

It has been recognized in the *Carirubana vs Assicurazioni Generali*, that damages and salvage claims arising out of collision will enjoy a two years time bar limitation further to Article 1470 of the Code of Commerce.

Following the voluntary sale of a vessel, credits prior to the sale maintain a six months time bar pursuant to article 1088 of the same Commercial Code.

If a Panama registered vessel or its owners have not been subjected to complying with a debt before a foreign jurisdiction within the year of occurrence of the transaction, it may be of a strong consideration that interruption of the time bar may be requested before either of the two existing Panama maritime courts.

Under article 1649-A of the same Code, time bars may be interrupted only in the event of :

1. Written recognition by debtor;
2. Renovation of the transaction instrument or
3. Filing of the claim in court

In the first 2 situations, the one year general time bar starts to run upon the date of recognition of the debt or the date where title of debt is recorded, as also affirmed by the Supreme Court of Panama in the decision of *M/N Conquista*.

Under the third alternative, via judicial claim, it is necessary to follow Law 8 of 1982 better known as "Panama's Law of Maritime Procedure" and article 690 of Panama's Judicial Code in regards to time bar interruptions.

In order to make the interruption effective, it is essential that a claim is filed with enough anticipation to the one year expiration date. Article 1650 of Panama Commercial Code establishes that the general one year time bar period starts to run as from the date the debt is payable and subject to judicial collection; in *Remsa SA vs Wilford & Mackay*, the Supreme Court recognized that in cargo claims the period starts to run from the time of delivery of the goods.

Generally, it will be the date of the receipt, if it is a common debt or pursuant to contractual provisions, in a more complex transaction.

Following the presentation of the claim, it is necessary to give the proper notices to the defendant. It is common and possible that neither the vessel nor the owner may be available within the jurisdiction of Panama at the time of presentation of claim. For this reason, it will be necessary for the claimant to prepare and publish a public notice, duly certified by the court, of the claim for 3 consecutive days on a well-known local newspaper.

Upon compliance of this procedural requirement, claimants counsel can continue seeking progress in summoning the defendant before Panamanian jurisdiction or providing assistance for the interruption of the time bar before a second jurisdiction.

The possibility of interrupting a time bar is a practical tool available to creditors that significantly will help to extend the life of a claim and the consequent possibility of seeking payment in Panama or abroad, as it can also assist to support the efforts of lawyers and claimants in other jurisdictions where the vessel or its owners may be located.

g. Judicial sale of vessels

Marine related creditors may primarily pursue arrest and seize assets such as vessels cargo, and freight. If by the time the court reaches a decision favorable to a claimant and the defendant has not been able to replace any of the seized properties then the court will have to dispose of the property through a judicial sale. In Panama, marine judicial sales are governed and regulated in Title V, Chapter VI of Law 8 of 1982. Although principally conceived for vessel sales it is applicable to other seized property through a marine claim.

Once the court has established a date for the sale, announcements must be made public, normally through well known local newspapers and at the claimants requisition in international newspapers. The announcements must include date, time, place, vessel details and price; in regard to the latter the court must have complied with obtaining an appraisal from a reputable surveyor and available to all interested parties.

The said notification must also inform of the minimal amount to be deposited to qualify as bidder, which shall represent 5% of the appraisal. It is worth noting that although the law contemplates the possibility that recorded creditors are excluded from presenting the deposit it has become a matter of constant discussion and review by the courts which creditors can participate in a judicial sale.

During the first round it is permitted to the court and marshal to close the sale for two thirds of the appraisal, and should no such offer be available the court is mandated to appoint a second date for receiving offers, in which it may accept offers for half of the appraisal. If by the second round, the court does not receive acceptable offers a third and final date must be immediately appointed by court, in which there will be no minimum amounts established to receive offers.

Once the court marshal has provisionally awarded the sale, the bidder must comply with completion of payment within 24 hours, risking the loss of the award and his deposit if not complying.

h. Ship arrests in Panama

Introduction

Panama is one of the most transited maritime routes in the world. For almost a hundred years, it has been an obliged passage for vessels.

Over 14,000 vessels cross the Panama Canal every year. During the last few years, Panama has become a mayor transshipment centre at any of the four (4) state-of-the-art container ports, located at both entrances of the Canal. Panama for its maritime tradition, geographical position and obliged passage route represents a reliable option when considering where to arrest a vessel.

Legal Background

For the first 80 years of Panama's republican existence, the U.S. District Court for the District of the Canal Zone was the only competent forum to handle cases against the Panama Canal Company and also dealt with the enforcement of privileged maritime liens, personal injuries, and others, basically due to the effectiveness and adequate protection provided by the U.S. Federal Rules of Civil Procedure and the Supplemental Admiralty Rules.

Under the new Panama Canal Treaties of 1978, the U.S. Court for the District of the Canal Zone was closed on 1st. April 1982 and Panama enacted Law No. 8 of 30th March 1982, whereby the Maritime Courts are created and rules of procedure are enacted,[2] hereinafter called the "Maritime Law". It should be noted that the draftsmen of the Maritime Law relied to a great extent on the U.S. Federal Rules of the Civil Procedure and the Supplemental Admiralty Rules.



Powers and Functions of the Maritime Court

To date, two Maritime Courts have been established under Maritime Law. The Second of these Courts was just created two months ago. These courts are open 24 hours a day, everyday of the year, including holidays.

They have exclusive jurisdiction over cases arising from or connected with maritime trade and navigation occurring within the territory of the Republic of Panama, its territorial sea, the navigable waters of its rivers and lakes and the Panama Canal waters.

Under s. 17 the Maritime Court will also be competent to take cognizance of actions from commercial and maritime transport activities occurring outside the areas mentioned above, in the following cases:

When the respective claims are directed against the vessel or her owner and as a consequence thereof the vessel is arrested within Panamanian jurisdiction.

When the Maritime Court has attached other assets of the defendant although said party is not domiciled within the Republic of Panama.

When the defendant is within Panamanian jurisdiction and has been personally notified of any claims filed at the Maritime Court. When one of the vessels involved is a Panamanian flag vessel, or Panamanian substantive law becomes applicable under the contract or due to the provisions of Panamanian law, or the parties subject themselves expressly or impliedly to the jurisdiction of the Panamanian Maritime Court.

Labour lawsuits concerning workers on board Panamanian flag vessels will be in the competence of the Maritime Court or of the labour courts at the option of the worker. Notwithstanding the foregoing, claims for damages arising from occupational risks due to fraud, fault or negligence imputable to the employer or to third parties are within the competence of the Maritime Court.

Applicable Law

Claims may be presented invoking:

- The law of the flag of a vessel
- Choice of law agreements, or the place where a connection can be established. To this point, Art. 557 of Law No. 8 establishes general guidelines as to the applicable law in a number of general situations.

Procedural Considerations

Arrests may be executed based on in rem or in personam claims, as per Art. 168 considerations. For both types of claims procedure and execution of arrest is similar.



The complaint

The process in rem against a vessel, cargo or freight (or a combination thereof) subject to a privileged maritime lien is initiated by filing a complaint prepared by the plaintiff which should (a) describe with particularity the circumstances from which the claim arises, the property that is the subject of the action and stating that it is within the jurisdiction of the court or will be during the pendency of the action; (b) contain a statement identifying the claim as an enforcement of a privilege maritime lien or an in personam claim; and (c) include a petition for arrest of the property in question. [6] Besides the foregoing requirements, the complaint must contain all other information required by Art. 55 of the Maritime Law for ordinary complaints.

Legal Counsel

Only lawyers qualified to practice law in Panama may represent parties at Panamanian courts.

The appointment of legal counsel in Panama must be effected by means of a power of attorney in his favor.

In situations where the time factor requires immediate action and the power of attorney has not yet been received by the Panamanian legal counsel, he may act as a de facto agent of the plaintiff 7 under a special civil law institution, provided that the original Power of Attorney is submitted as soon as reasonably possible (normally within 3 months following arrest).

Said power must be duly notarized and authenticated by the respective Panamanian Consulate or, in default thereof, by that of a friendly nation.

Evidence of Claim

Generally, any available evidence should be attached to the complaint. Initially photocopies will suffice to support the claim as prima facie evidence.

For foreign companies, proof of existence of the companies and the authority of their representative must be provided.

Process In Rem

The *conditio sine qua non* of the in rem jurisdiction necessary to execute the lien is the physical presence of the res within the jurisdiction of enforcement. As a consequence and as mentioned before, Paragraph 2 of Art. 526 of the Maritime Law, in prescribing the special formal requirements for actions in rem to enforce privilege maritime liens, requires a statement that the property subject to the action is within the jurisdiction of the Maritime Court or will be during the pendency of the action. However, the actual presence of the res is not a prerequisite to filing an in rem action and initiating the process.

Arrest expenses must be paid in advance to enable its legal counsel in Panama to constitute a security for an amount of USD 1,000 for damages caused by the arrest of the vessel or other property at the moment of filing the initial pleadings, and USD 2,500 for custody and maintenance expenses of the property during the pendency of the arrest. The said amount is always USD 2,500 in the case of vessels. However, the Marshal may require additional sums to cover the projected expenses of custody and maintenance of the res, especially if the vessel remains in their custody for prolonged periods.

Order of Arrest

In cases of vessels or other property located within the Panamanian jurisdiction, the order or warrant for the arrest of the vessels or other property will be issued by the Maritime Court and delivered to the Marshal on the same day that the complaint and the petition for the arrest are filed, provided that all security and initial maintenance expenses have been covered by the plaintiff.

Execution of Process

Upon receipt of the complaint and the petition for arrest and the constitution of the pertinent security, the arrest proceeds without notice to the defendant and the Marshal is directed by Art. 168 of the Maritime Law to execute the order at the place where the vessel or other property is located and to serve process on the person in charge of the property. The Marshal will thereafter affix the order in the pilot house in the event of vessels, cargo, or both, or in a conspicuous place in case the cargo is not on board the vessel.

With respect to the arrest of Panamanian flagged vessels or other property located or recorded at the Public Registry of Panama, the clerk of the Maritime Court will instruct the Public Registry to refuse to make any further registrations concerning the arrested vessel or other property after the service of the order of arrest by the Marshal to the person in charge of said property or its custody.

Within the arrest proceedings, the Marshal and the custodian of the property prepare and sign a record of the inventory of the arrested property. In the case of a vessel the Marshal will require the master or other officer in charge to submit all documents listing the parts and assets of the vessel and her cargo, which documents are annexed to the Marshal's records.

Notice

Within the scope of the Maritime Law, a key element to the concept of privileged maritime liens and their enforcement is that adequate personal notice of the complaint to the defendant is accomplished by the execution of the order of arrest.

Custody and Maintenance

The Marshal is appointed by Art. 174 of the Maritime Law to be custodian of the vessel or, other obligations he must take all necessary measures to provide adequate maintenance of the vessel or other property, supervise the repatriation of the officers and crew upon their request, take out insurance, keep accounting records, and render accounts to the Maritime Court.

The owner of the vessel or other property, or its representative, is entitled to supervise the proper maintenance and administration of the res.

Nevertheless, in cases of perishable property, the Marshal with previous authorization from Maritime Court, and with the participation of the interested party, may arrange for an interlocutory judicial sale, the proceeds of which are deposited in the National Bank of Panama.

Ship register and financing

a. Mortgages on Panamanian vessels

The following is a brief outline of the procedures and requirements set forth in the laws of the Republic of Panama about the registration of ship mortgages under the laws of Panama.

All enquiries concerning Panamanian matters within the terms of the present memorandum or other matters will be answered within the same day.

• General information

Panama law requires that the registration of a mortgage be dated on or after the date of the Provisional Navigation License.

Ship mortgages must be formalized in a Public Deed in Spanish if executed in Panama or before a Panamanian Consulate if executed abroad. Ship mortgages may also be executed abroad subject to the formalities prescribed for such instruments by the laws of the country in which it is executed. This should include the acceptance of the mortgage by the mortgagee. In this case, the signatures and corresponding authority of the parties executing the instrument should be authenticated by a Notary Public and the signature of the Notary Public should be legalized by a Panamanian Consulate or by Apostille.

• Requirements

Regardless of the manner in which it is executed, the mortgage instrument must contain, at least the following information:

1. Full name, civil status, occupation and addresses of the mortgagor and the mortgagee or the corporate identity, its description, nationality and addresses of the parties.

2. The sum secured by the mortgage (or the maximum amount in the event of a credit facility) and the sum or sums to which the lien applies for the payment of costs and interest. The rate of interest if it is a fixed or floating rate. The maximum interest rate allowed is 2 percent (2%) per month.



3. The dates of repayment of principal and interest, and any other provisions and covenants, which the parties may deem advisable concerning, interest, insurance, assignments, and others.

The interest rate may be stipulated by reference to a rate prevailing in a particular market or bank rate to selected borrowers in a given market.

The rate may be adopted by reference to the existing rate at the time of execution of the instrument or to fluctuations during the term of credit.

4. The name and radio call letters that distinguish the ship. Its complete description, registration data at the Public Registry Office, and the number and date of the Navigation License.

5. The amount or price that is assigned to the ship, which will serve as a basis for foreclosure in the event of an auction.

6. When several vessels are mortgaged by the same instrument to cover the same credit, it is possible to determine that each vessel is responsible for the total amount secured or only for a part of the lien.

If this determination is not made, the mortgagee may enforce the mortgage for the total sum secured against any of the vessels or against all of them. It is advisable that the mortgage instrument contains a clause stating which lawyer or law firm is to effect the permanent registration in Panama.

A ship mortgage executed abroad, in English or any other language, will be translated into Spanish in Panama by an Official Authorized Translator, or protocolised before a Notary Public, and finally recorded at the Public Registry in Panama.

• Preliminary registration of titles and mortgages

In order to facilitate shipping operations, Panamanian titles and mortgages may be filed for preliminary registration at certain Panamanian Consulate with maritime jurisdiction, as made effective by Law No. 14 of May 27, 1980.

Titles to vessels registered in Panama may be preliminarily recorded through any Panamanian Consulate with maritime jurisdiction by filing with said Consulate a petition that shall contain at least the following information:

1. Names (and former names, if any) of the vessel
2. Navigation license number
3. Gross and net tonnages.

- In the case of mortgages the interested party should file a petition with the respective Consulate, at least containing the following information;

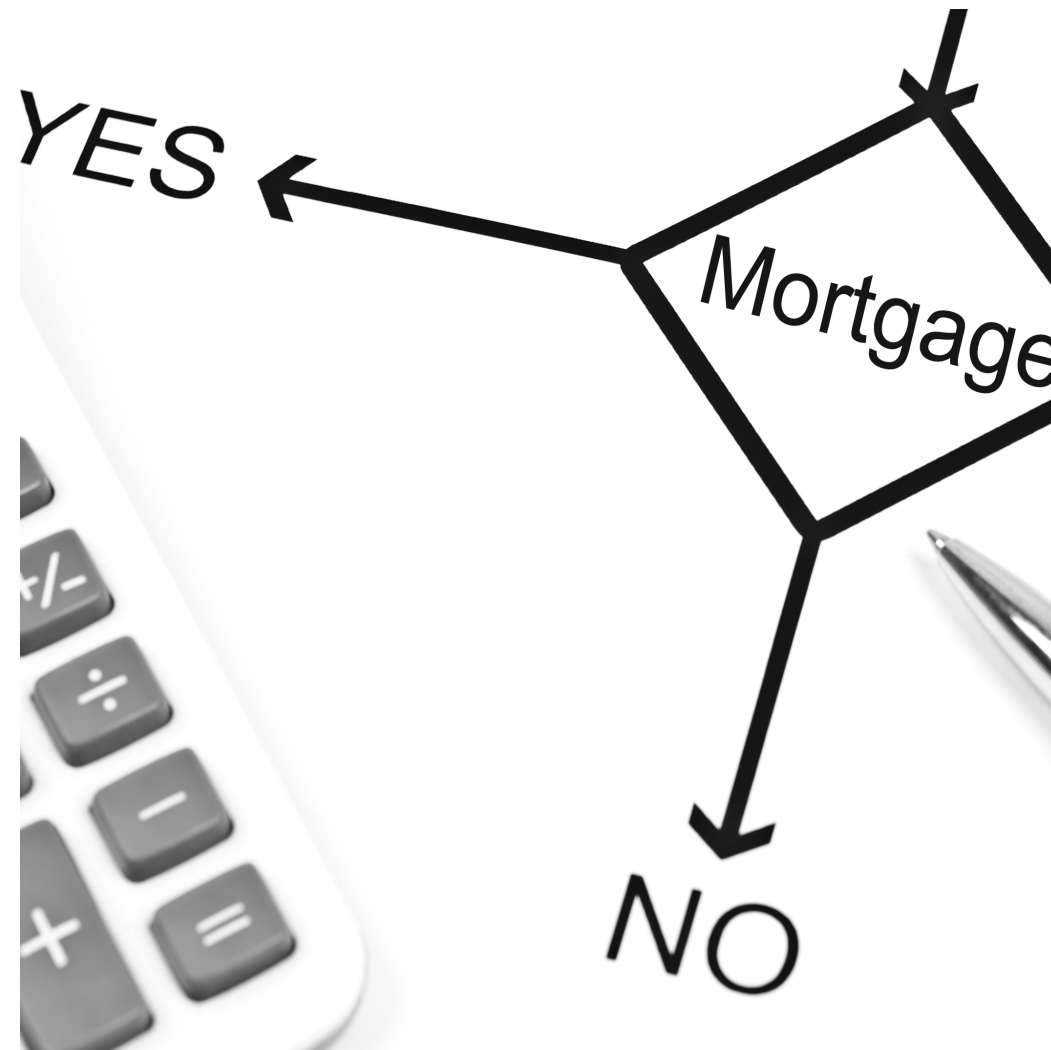
- The full names and domicile of the mortgagor and the mortgagee

- The amount secured by the mortgage, the interest rate, the date of payment of principal and interest

- The name of the vessel (and any former names), the number of its navigation license, its gross and net tonnages and principal dimensions

- The value assigned to the vessel to serve as a basis in case of foreclosure

In both cases, once the information contained in the petition has been verified by the Consul and payment of the pertinent taxes and fees has been made, the Consul will communicate the petition to the Public Registry Office in the Republic of Panama.



Upon verification in the Public Registry that no legal impediment exists, the petition will be entered into the Diary of the Public Registry Office and provisionally registered the communication received from the Consulate.

Upon such preliminary registration, the Public Registry Office will authorize the Consul to issue an official Certificate of Preliminary Registration, indicating the registration data, the date and hour of the entry in the Diary.

The aforementioned preliminary registration has the effect of a permanent registration during six (6) months, starting from the date and hour of the annotation or entry in the Diary of the Public Registry Office (this will be certified by the respective Consulate).

Within this six month period, the interested party must have the title and/or mortgage protocolised and filed for permanent registration at the Public Registry Office in Panama through a lawyer or law firm in Panama.

Panama law requires that all vessels of Panamanian nationality maintain a local legal representative to serve as liaison with the Panamanian authorities. Such representative must be a lawyer or law firm.

If the referred document has not been filed for its permanent registration within said period, its expiration will cause the preliminary registration to be legally void and the Public Registry will automatically make the corresponding annotations.

Once the permanent registration has been accomplished, its effects shall be retroactive to the date and time of entry in the Diary of the Public Registry Office of the petition for preliminary registration.

• Registration expenses and professional fees

Government charges regarding preliminary registrations

- Preliminary registration of titles to property at the Public Registry Office USD 450.00
- Preliminary registration of naval mortgages at the Public Registry up to the first USD 2MM USD 450.00 for each additional USD 1 MM USD 150.00 up to a maximum of USD 1,200.00 plus 20% surcharge

Government charges in connection with permanent registration of naval mortgages

The registration of naval mortgages fees at the Public Registry is twelve cents (USD 0.12) per net ton, and twenty percent (20 %) surcharge on the registration fees.

The maximum sum payable is USD 600 (one hundred thousand net tons) and twenty percent (20%) surcharge.

• Professional Fees

- a. For preliminary registration of Naval Mortgages: USD 350
- b. For permanent registration of Ship Mortgages: USD 950
- c. Notary fees, Translator's Fees will vary according to the length of the document.
- d. Telecommunication expenses and courier services will be charged separately.
- e. Legal opinions will be based on the characteristics of the mortgage.
- f. Extended or more complicated legal work will be charged at a hourly rate set of USD 150.

Should you have any questions or need any additional information, please contact us.

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About the Firm

Pardini & Asociados is an international law firm with headquarters in Panama with 35 years of tradition and experience advising foreign clients and corporations of all sizes.

Pardini & Asociados was founded in 1982 with an original practice in Corporate, Commercial, Admiralty and Maritime law, which still continues today.

Since then, our law firm has been at the forefront of many innovative legal developments and during the past 15 years, the law firm has developed a highly specialized practice in foreign investments mainly in the areas of Aviation, Hotels & Resorts, Real Estate, Petroleum, Energy, Mining, Telecommunications, Tax Planning, Intellectual Property, Insurance and Reinsurance, M&As, Banking, Securities, Antitrust and Competition, Manufacturing, Infrastructure, Construction, Litigation plus a strong expertise in Labor and Immigration.

Core Strengths

We offer legal services linked to a broad scope of business needs. Our clients look for us for our experience and knowledge in any of these practice disciplines, our innovation and cost-effective results.

Our team is composed for the best legal specialists in different areas with a deep expertise in all major business sectors.

How we can help you

- Aviation
- Antitrust, Trade & Competition
- Banking & Securities
- Commercial
- Corporate & Transactional
- Employment
- Energy
- Foreign Investments
- Hotels, Resorts & Casinos
- Immigration & Residence
- Infrastructure & Construction
- Insurance & Reinsurance
- IP
- Latin American Practice
- Litigation & Arbitration
- Maritime and Admiralty Law
- Mining, Petroleum & Natural Resources
- Telecommunications & Information Technology
- Wealth, Fiduciary & Corporate Services



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Ranking & Awards

Who's Who Legal

Natural Resource and Transport
2016 / 2017

Private Client, Energy and Aviation - Central America
2018

ACQ Law and Global Award

M&A and Corporate Law Firm of the Year
2013 / 2014 / 2015

Real Estate Law Firm of the Year
2017

Corporate INTL

Aviation Law Firm of the Year in Panama
2012 / 2013 / 2014 / 2017 / 2018

Shipping & Maritime Law Firm of the Year in Panama
2016 / 2018

Acquisition International

Mining & Energy Law Firm of the Year: Panama
2012 / 2013

Business Law Firm of the Year
2014

Dispute Resolution Award
2014 / 2015

Corporate Law Firm & Business Law Firm of the year – Panama
2014

Best Foreign Investments Law Firm - Panama
2016 / 2018

Global 100

Corporate and Litigation Law Firm of the Year
2013 / 2015

Corporate Law Firm of the Year - Panama
2016

Energy and Petroleum Law Firm of the Year - Panama
2016

Real Estate Law Firm of the Year - Panama
2016

Law Firm of the Year - Corporate – Panama
2017 / 2018

Getting the Deal Through

National Expert - Air Transport
2017 / 2018

Legal 500

Dispute Resolution
2017

CityWealth Leaderlist

Lawyers – Corporate and Regulatory
2017