

## *Case Study: The Evdokia*

***The Evdokia***[1980] 2 Lloyd's Rep. 107; dispute over the expenses incurred to discharge damaged cargo

*Deck logs (Winds BF 9&10)- Oceanroutes (max a force 7 gale), Arbitrator believed that some of the entries in the log were exaggerated and found that the vessel encountered gale force winds of force 7 or perhaps at times force 8 but no more.*

In practice, this case was cited to support **a general rule** that the evidence of Weather routing companies as to the state of weather prevails over the deck logs. **That is not a safe conclusion.** In its award in the form of a special case (s. 21(1) AA 1950), it was the factual context that the Umpire made the finding that deck logs exaggerated the weather conditions experienced on the voyage based on three reasons: (1) no evidence of drastic reduction of engine revolutions, (2) evidence of Oceanroutes (max Force 7 Gale), (3) soundings being taken on deck forward. Donaldson J dealt with the questions of law in relation to the cost of getting the cargo out of the vessel, not acted as an appellate Court on questions of fact. In essence, this was a finding from an arbitrator on the evidence before him, both documentary and oral.

Points (1) and (3) should be considered in relation to this type of ship- not unlikely a “Liberty Ship”; modern ships of much greater size respond differently in similar weather conditions. Procedural issues have changed since AA 1950 (abolition of special case), and the LMAA terms were not introduced that time. Before the 1980s it was *ad hoc arbitration* in another sense, namely that there were no formalised procedures or rules beyond what was prescribed by the Arbitration Acts. Nowadays, a third arbitrator will be likely appointed and not an umpire. The two appointed arbitrators had different background (barrister and mariner), the Umpire (Mr Kent) was a senior partner in a leading firm of City solicitors experienced in maritime matters.

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